



Rep. John E. Bradley

Filed: 1/7/2011

09600SB1066ham002

LRB096 07137 WGH 44843 a

1 AMENDMENT TO SENATE BILL 1066

2 AMENDMENT NO. _____. Amend Senate Bill 1066, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 Section 5. The Department of Central Management Services
6 Law of the Civil Administrative Code of Illinois is amended by
7 changing Section 405-411 as follows:

8 (20 ILCS 405/405-411)

9 Sec. 405-411. Consolidation of workers' compensation
10 functions.

11 (a) Notwithstanding any other law to the contrary, the
12 Director of Central Management Services, working in
13 cooperation with the Director of any other agency, department,
14 board, or commission directly responsible to the Governor, may
15 direct the consolidation, within the Department of Central
16 Management Services, of those workers' compensation functions

1 at that agency, department, board, or commission that are
2 suitable for centralization.

3 Upon receipt of the written direction to transfer workers'
4 compensation functions to the Department of Central Management
5 Services, the personnel, equipment, and property (both real and
6 personal) directly relating to the transferred functions shall
7 be transferred to the Department of Central Management
8 Services, and the relevant documents, records, and
9 correspondence shall be transferred or copied, as the Director
10 may prescribe.

11 (b) Upon receiving written direction from the Director of
12 Central Management Services, the Comptroller and Treasurer are
13 authorized to transfer the unexpended balance of any
14 appropriations related to the workers' compensation functions
15 transferred to the Department of Central Management Services
16 and shall make the necessary fund transfers from the General
17 Revenue Fund, any special fund in the State treasury, or any
18 other federal or State trust fund held by the Treasurer to the
19 Workers' Compensation Revolving Fund for use by the Department
20 of Central Management Services in support of workers'
21 compensation functions or any other related costs or expenses
22 of the Department of Central Management Services.

23 (c) The rights of employees and the State and its agencies
24 under the Personnel Code and applicable collective bargaining
25 agreements or under any pension, retirement, or annuity plan
26 shall not be affected by any transfer under this Section.

1 (d) The functions transferred to the Department of Central
2 Management Services by this Section shall be vested in and
3 shall be exercised by the Department of Central Management
4 Services. Each act done in the exercise of those functions
5 shall have the same legal effect as if done by the agencies,
6 offices, divisions, departments, bureaus, boards and
7 commissions from which they were transferred.

8 Every person or other entity shall be subject to the same
9 obligations and duties and any penalties, civil or criminal,
10 arising therefrom, and shall have the same rights arising from
11 the exercise of such rights, powers, and duties as had been
12 exercised by the agencies, offices, divisions, departments,
13 bureaus, boards, and commissions from which they were
14 transferred.

15 Whenever reports or notices are now required to be made or
16 given or papers or documents furnished or served by any person
17 in regards to the functions transferred to or upon the
18 agencies, offices, divisions, departments, bureaus, boards,
19 and commissions from which the functions were transferred, the
20 same shall be made, given, furnished or served in the same
21 manner to or upon the Department of Central Management
22 Services.

23 This Section does not affect any act done, ratified, or
24 cancelled or any right occurring or established or any action
25 or proceeding had or commenced in an administrative, civil, or
26 criminal cause regarding the functions transferred, but those

1 proceedings may be continued by the Department of Central
2 Management Services.

3 This Section does not affect the legality of any rules in
4 the Illinois Administrative Code regarding the functions
5 transferred in this Section that are in force on the effective
6 date of this Section. If necessary, however, the affected
7 agencies shall propose, adopt, or repeal rules, rule
8 amendments, and rule recodifications as appropriate to
9 effectuate this Section.

10 (e) There is hereby created within the Department of
11 Central Management Services an advisory body to be known as the
12 Workers' Compensation Advisory Board to review, assess, and
13 provide recommendations to improve the State workers'
14 compensation program and to ensure that the State manages the
15 program in the interests of injured workers and taxpayers. The
16 Governor, the Speaker of the House of Representatives, the
17 Minority Leader of the House of Representatives, the President
18 of the Senate, and the Minority Leader of the Senate shall each
19 appoint one person to the Board. Each Board member initially
20 appointed to the Board shall serve a term ending December 31,
21 2013. Each Board member appointed thereafter shall serve a
22 3-year term, and a Board member shall continue to serve on the
23 Board until his or her successor is appointed. In addition, the
24 Director of the Department of Central Management Services, the
25 Attorney General, the Director of the Department of Insurance,
26 the Director of the Department of Corrections, the Secretary of

1 the Department of Transportation, the Secretary of the
2 Department of Human Services, and the Commissioner of the
3 Illinois Workers' Compensation Commission, or their designees,
4 shall serve on the Board. The Board shall select one of its
5 members to serve as Chairperson. Members of the Board shall not
6 receive compensation but shall be reimbursed from the Workers'
7 Compensation Revolving Fund for reasonable expenses incurred
8 in the necessary performance of their duties, and the
9 Department of Central Management Services shall provide
10 administrative support to the Board. The Board shall meet at
11 least 3 times per year, or more often if the Board deems it
12 necessary or proper. By July 1, 2011, the Board shall issue a
13 written report, to be delivered to the Governor, the Director
14 of the Department of Central Management Services, and the
15 General Assembly, with a recommended set of best practices for
16 the State workers' compensation program. By July 1st of each
17 year thereafter, the Board shall issue a written report, to be
18 delivered to those same persons or entities, with
19 recommendations on how to improve upon such practices.

20 (Source: P.A. 93-839, eff. 7-30-04.)

21 Section 10. The Workers' Compensation Act is amended by
22 changing Sections 4, 8, 8.2, 8.3, 8.7, 11, 14, and 25.5 and
23 adding Sections 16b, 29.1, and 29.2 as follows:

24 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

1 Sec. 4. (a) Any employer, including but not limited to
2 general contractors and their subcontractors, who shall come
3 within the provisions of Section 3 of this Act, and any other
4 employer who shall elect to provide and pay the compensation
5 provided for in this Act shall:

6 (1) File with the Commission annually an application
7 for approval as a self-insurer which shall include a
8 current financial statement, and annually, thereafter, an
9 application for renewal of self-insurance, which shall
10 include a current financial statement. Said application
11 and financial statement shall be signed and sworn to by the
12 president or vice president and secretary or assistant
13 secretary of the employer if it be a corporation, or by all
14 of the partners, if it be a copartnership, or by the owner
15 if it be neither a copartnership nor a corporation. All
16 initial applications and all applications for renewal of
17 self-insurance must be submitted at least 60 days prior to
18 the requested effective date of self-insurance. An
19 employer may elect to provide and pay compensation as
20 provided for in this Act as a member of a group workers'
21 compensation pool under Article V 3/4 of the Illinois
22 Insurance Code. If an employer becomes a member of a group
23 workers' compensation pool, the employer shall not be
24 relieved of any obligations imposed by this Act.

25 If the sworn application and financial statement of any
26 such employer does not satisfy the Commission of the

1 financial ability of the employer who has filed it, the
2 Commission shall require such employer to,

3 (2) Furnish security, indemnity or a bond guaranteeing
4 the payment by the employer of the compensation provided
5 for in this Act, provided that any such employer whose
6 application and financial statement shall not have
7 satisfied the commission of his or her financial ability
8 and who shall have secured his liability in part by excess
9 liability insurance shall be required to furnish to the
10 Commission security, indemnity or bond guaranteeing his or
11 her payment up to the effective limits of the excess
12 coverage, or

13 (3) Insure his entire liability to pay such
14 compensation in some insurance carrier authorized,
15 licensed, or permitted to do such insurance business in
16 this State. Every policy of an insurance carrier, insuring
17 the payment of compensation under this Act shall cover all
18 the employees and the entire compensation liability of the
19 insured: Provided, however, that any employer may insure
20 his or her compensation liability with 2 or more insurance
21 carriers or may insure a part and qualify under subsection
22 1, 2, or 4 for the remainder of his or her liability to pay
23 such compensation, subject to the following two
24 provisions:

25 Firstly, the entire compensation liability of the
26 employer to employees working at or from one location

1 shall be insured in one such insurance carrier or shall
2 be self-insured, and

3 Secondly, the employer shall submit evidence
4 satisfactorily to the Commission that his or her entire
5 liability for the compensation provided for in this Act
6 will be secured. Any provisions in any policy, or in
7 any endorsement attached thereto, attempting to limit
8 or modify in any way, the liability of the insurance
9 carriers issuing the same except as otherwise provided
10 herein shall be wholly void.

11 Nothing herein contained shall apply to policies of
12 excess liability carriage secured by employers who have
13 been approved by the Commission as self-insurers, or

14 (4) Make some other provision, satisfactory to the
15 Commission, for the securing of the payment of compensation
16 provided for in this Act, and

17 (5) Upon becoming subject to this Act and thereafter as
18 often as the Commission may in writing demand, file with
19 the Commission in form prescribed by it evidence of his or
20 her compliance with the provision of this Section.

21 (a-1) Regardless of its state of domicile or its principal
22 place of business, an employer shall make payments to its
23 insurance carrier or group self-insurance fund, where
24 applicable, based upon the premium rates of the situs where the
25 work or project is located in Illinois if:

26 (A) the employer is engaged primarily in the building

1 and construction industry; and

2 (B) subdivision (a) (3) of this Section applies to the
3 employer or the employer is a member of a group
4 self-insurance plan as defined in subsection (1) of Section
5 4a.

6 The Illinois Workers' Compensation Commission shall impose
7 a penalty upon an employer for violation of this subsection
8 (a-1) if:

9 (i) the employer is given an opportunity at a hearing
10 to present evidence of its compliance with this subsection
11 (a-1); and

12 (ii) after the hearing, the Commission finds that the
13 employer failed to make payments upon the premium rates of
14 the situs where the work or project is located in Illinois.

15 The penalty shall not exceed \$1,000 for each day of work
16 for which the employer failed to make payments upon the premium
17 rates of the situs where the work or project is located in
18 Illinois, but the total penalty shall not exceed \$50,000 for
19 each project or each contract under which the work was
20 performed.

21 Any penalty under this subsection (a-1) must be imposed not
22 later than one year after the expiration of the applicable
23 limitation period specified in subsection (d) of Section 6 of
24 this Act. Penalties imposed under this subsection (a-1) shall
25 be deposited into the Illinois Workers' Compensation
26 Commission Operations Fund, a special fund that is created in

1 the State treasury. Subject to appropriation, moneys in the
2 Fund shall be used solely for the operations of the Illinois
3 Workers' Compensation Commission and by the Department of
4 Financial and Professional Regulation for the purposes
5 authorized in subsection (c) of Section 25.5 of this Act.

6 (a-2) For purposes of this subsection, "Professional
7 Employer Organization" or "PEO" means an entity or group of
8 entities that provides the services of its workers to its
9 client or clients through an arrangement for a fee pursuant to
10 an agreement, written or otherwise. "Professional Employer
11 Organization" or "PEO" also includes an employee leasing
12 company or other similarly administered arrangement. Any
13 workers' compensation insurance policy issued to a PEO shall at
14 a minimum provide the following information to the Commission
15 or any entity designated by the Commission regarding each
16 policy issued to the PEO:

17 (1) Each client company of the PEO listed as an
18 additional named insured.

19 (2) Information schedules attached to the master
20 policy to identify each individual company's name, FEIN,
21 and job location.

22 (3) A certificate of insurance coverage document
23 issued to each client company specifying its rights and
24 obligations under the master policy that clearly
25 establishes both the identity and status of the client, as
26 well as the dates of inception and termination of coverage,

1 if applicable.

2 (b) The sworn application and financial statement, or
3 security, indemnity or bond, or amount of insurance, or other
4 provisions, filed, furnished, carried, or made by the employer,
5 as the case may be, shall be subject to the approval of the
6 Commission.

7 Deposits under escrow agreements shall be cash, negotiable
8 United States government bonds or negotiable general
9 obligation bonds of the State of Illinois. Such cash or bonds
10 shall be deposited in escrow with any State or National Bank or
11 Trust Company having trust authority in the State of Illinois.

12 Upon the approval of the sworn application and financial
13 statement, security, indemnity or bond or amount of insurance,
14 filed, furnished or carried, as the case may be, the Commission
15 shall send to the employer written notice of its approval
16 thereof. The certificate of compliance by the employer with the
17 provisions of subparagraphs (2) and (3) of paragraph (a) of
18 this Section shall be delivered by the insurance carrier to the
19 Illinois Workers' Compensation Commission within five days
20 after the effective date of the policy so certified. The
21 insurance so certified shall cover all compensation liability
22 occurring during the time that the insurance is in effect and
23 no further certificate need be filed in case such insurance is
24 renewed, extended or otherwise continued by such carrier. The
25 insurance so certified shall not be cancelled or in the event
26 that such insurance is not renewed, extended or otherwise

1 continued, such insurance shall not be terminated until at
2 least 10 days after receipt by the Illinois Workers'
3 Compensation Commission of notice of the cancellation or
4 termination of said insurance; provided, however, that if the
5 employer has secured insurance from another insurance carrier,
6 or has otherwise secured the payment of compensation in
7 accordance with this Section, and such insurance or other
8 security becomes effective prior to the expiration of the 10
9 days, cancellation or termination may, at the option of the
10 insurance carrier indicated in such notice, be effective as of
11 the effective date of such other insurance or security.

12 (c) Whenever the Commission shall find that any
13 corporation, company, association, aggregation of individuals,
14 reciprocal or interinsurers exchange, or other insurer
15 effecting workers' compensation insurance in this State shall
16 be insolvent, financially unsound, or unable to fully meet all
17 payments and liabilities assumed or to be assumed for
18 compensation insurance in this State, or shall practice a
19 policy of delay or unfairness toward employees in the
20 adjustment, settlement, or payment of benefits due such
21 employees, the Commission may after reasonable notice and
22 hearing order and direct that such corporation, company,
23 association, aggregation of individuals, reciprocal or
24 interinsurers exchange, or insurer, shall from and after a date
25 fixed in such order discontinue the writing of any such
26 workers' compensation insurance in this State. Subject to such

1 modification of the order as the Commission may later make on
2 review of the order, as herein provided, it shall thereupon be
3 unlawful for any such corporation, company, association,
4 aggregation of individuals, reciprocal or interinsurers
5 exchange, or insurer to effect any workers' compensation
6 insurance in this State. A copy of the order shall be served
7 upon the Director of Insurance by registered mail. Whenever the
8 Commission finds that any service or adjustment company used or
9 employed by a self-insured employer or by an insurance carrier
10 to process, adjust, investigate, compromise or otherwise
11 handle claims under this Act, has practiced or is practicing a
12 policy of delay or unfairness toward employees in the
13 adjustment, settlement or payment of benefits due such
14 employees, the Commission may after reasonable notice and
15 hearing order and direct that such service or adjustment
16 company shall from and after a date fixed in such order be
17 prohibited from processing, adjusting, investigating,
18 compromising or otherwise handling claims under this Act.

19 Whenever the Commission finds that any self-insured
20 employer has practiced or is practicing delay or unfairness
21 toward employees in the adjustment, settlement or payment of
22 benefits due such employees, the Commission may, after
23 reasonable notice and hearing, order and direct that after a
24 date fixed in the order such self-insured employer shall be
25 disqualified to operate as a self-insurer and shall be required
26 to insure his entire liability to pay compensation in some

1 insurance carrier authorized, licensed and permitted to do such
2 insurance business in this State, as provided in subparagraph 3
3 of paragraph (a) of this Section.

4 All orders made by the Commission under this Section shall
5 be subject to review by the courts, said review to be taken in
6 the same manner and within the same time as provided by Section
7 19 of this Act for review of awards and decisions of the
8 Commission, upon the party seeking the review filing with the
9 clerk of the court to which said review is taken a bond in an
10 amount to be fixed and approved by the court to which the
11 review is taken, conditioned upon the payment of all
12 compensation awarded against the person taking said review
13 pending a decision thereof and further conditioned upon such
14 other obligations as the court may impose. Upon the review the
15 Circuit Court shall have power to review all questions of fact
16 as well as of law. The penalty hereinafter provided for in this
17 paragraph shall not attach and shall not begin to run until the
18 final determination of the order of the Commission.

19 (d) Whenever a Commissioner ~~panel of 3 Commissioners~~
20 ~~comprised of one member of the employing class, one member of~~
21 ~~the employee class, and one member not identified with either~~
22 ~~the employing or employee class,~~ with due process and after a
23 hearing, determines: (1) an employer has knowingly failed to
24 provide coverage as required by paragraph (a) of this Section,
25 and (2) the failure ~~is~~ ~~shall be deemed~~ an immediate serious
26 danger to public health, safety, and welfare sufficient to

1 justify service by the Commission of a work-stop order on such
2 employer, then a Commissioner may enter a work-stop order
3 requiring the cessation of all business operations of such
4 employer at the place of employment or job site. Any law
5 enforcement agency in the State shall, at the request of the
6 Commission, render any assistance necessary to carry out the
7 provisions of this Section, including, but not limited to,
8 preventing any employee of such employer from remaining at a
9 place of employment or job site after a work-stop order has
10 taken effect. Any work-stop order shall be lifted immediately
11 upon proof of insurance as required by this Act and payment of
12 any applicable fines or penalties. Any orders under this
13 Section are appealable under Section 19(f) to the Circuit
14 Court.

15 Any individual employer, corporate officer or director of a
16 corporate employer, partner of an employer partnership, or
17 member of an employer limited liability company who knowingly
18 fails to provide coverage as required by paragraph (a) of this
19 Section is guilty of a Class 4 felony. This provision shall not
20 apply to any corporate officer or director of any
21 publicly-owned corporation. Each day's violation constitutes a
22 separate offense. The State's Attorney of the county in which
23 the violation occurred, or the Attorney General, shall bring
24 such actions in the name of the People of the State of
25 Illinois, or may, in addition to other remedies provided in
26 this Section, bring an action for an injunction to restrain the

1 violation or to enjoin the operation of any such employer.

2 Any individual employer, corporate officer or director of a
3 corporate employer, partner of an employer partnership, or
4 member of an employer limited liability company who negligently
5 fails to provide coverage as required by paragraph (a) of this
6 Section is guilty of a Class A misdemeanor. This provision
7 shall not apply to any corporate officer or director of any
8 publicly-owned corporation. Each day's violation constitutes a
9 separate offense. The State's Attorney of the county in which
10 the violation occurred, or the Attorney General, shall bring
11 such actions in the name of the People of the State of
12 Illinois.

13 The criminal penalties in this subsection (d) shall not
14 apply where there exists a good faith dispute as to the
15 existence of an employment relationship. Evidence of good faith
16 shall include, but not be limited to, compliance with the
17 definition of employee as used by the Internal Revenue Service.

18 Employers who are subject to and who knowingly fail to
19 comply with this Section shall not be entitled to the benefits
20 of this Act during the period of noncompliance, but shall be
21 liable in an action under any other applicable law of this
22 State. In the action, such employer shall not avail himself or
23 herself of the defenses of assumption of risk or negligence or
24 that the injury was due to a co-employee. In the action, proof
25 of the injury shall constitute prima facie evidence of
26 negligence on the part of such employer and the burden shall be

1 on such employer to show freedom of negligence resulting in the
2 injury. The employer shall not join any other defendant in any
3 such civil action. Nothing in this amendatory Act of the 94th
4 General Assembly shall affect the employee's rights under
5 subdivision (a)3 of Section 1 of this Act. Any employer or
6 carrier who makes payments under subdivision (a)3 of Section 1
7 of this Act shall have a right of reimbursement from the
8 proceeds of any recovery under this Section.

9 An employee of an uninsured employer, or the employee's
10 dependents in case death ensued, may, instead of proceeding
11 against the employer in a civil action in court, file an
12 application for adjustment of claim with the Commission in
13 accordance with the provisions of this Act and the Commission
14 shall hear and determine the application for adjustment of
15 claim in the manner in which other claims are heard and
16 determined before the Commission.

17 All proceedings under this subsection (d) shall be reported
18 on an annual basis to the Workers' Compensation Advisory Board.

19 An investigator with the Illinois Workers' Compensation
20 Commission Insurance Compliance Division may issue a citation
21 to any employer that is not in compliance with its obligation
22 to have workers' compensation insurance under this Act. The
23 amount of the fine shall be based on the period of time the
24 employer was in non-compliance, but shall be no less than \$500,
25 and shall not exceed \$2,500. An employer that has been issued a
26 citation shall pay the fine to the Commission and provide to

1 the Commission proof that it obtained the required workers'
2 compensation insurance within 10 days after the citation was
3 issued. This Section does not affect any other obligations this
4 Act imposes on employers.

5 Upon a finding by the Commission, after reasonable notice
6 and hearing, of the knowing and wilful failure or refusal of an
7 employer to comply with any of the provisions of paragraph (a)
8 of this Section, ~~or~~ the failure or refusal of an employer,
9 service or adjustment company, or an insurance carrier to
10 comply with any order of the Illinois Workers' Compensation
11 Commission pursuant to paragraph (c) of this Section
12 disqualifying him or her to operate as a self insurer and
13 requiring him or her to insure his or her liability, or the
14 knowing and willful failure of an employer to comply with a
15 citation issued by an investigator with the Illinois Workers'
16 Compensation Commission Insurance Compliance Division, the
17 Commission may assess a civil penalty of up to \$500 per day for
18 each day of such failure or refusal after the effective date of
19 this amendatory Act of 1989. The minimum penalty under this
20 Section shall be the sum of \$10,000. Each day of such failure
21 or refusal shall constitute a separate offense. The Commission
22 may assess the civil penalty personally and individually
23 against the corporate officers and directors of a corporate
24 employer, the partners of an employer partnership, and the
25 members of an employer limited liability company, after a
26 finding of a knowing and willful refusal or failure of each

1 such named corporate officer, director, partner, or member to
2 comply with this Section. The liability for the assessed
3 penalty shall be against the named employer first, and if the
4 named employer fails or refuses to pay the penalty to the
5 Commission within 30 days after the final order of the
6 Commission, then the named corporate officers, directors,
7 partners, or members who have been found to have knowingly and
8 willfully refused or failed to comply with this Section shall
9 be liable for the unpaid penalty or any unpaid portion of the
10 penalty. Upon investigation by the insurance non-compliance
11 unit of the Commission, the Attorney General shall have the
12 authority to prosecute all proceedings to enforce the civil and
13 administrative provisions of this Section before the
14 Commission. The Commission shall promulgate procedural rules
15 for enforcing this Section.

16 Upon the failure or refusal of any employer, service or
17 adjustment company or insurance carrier to comply with the
18 provisions of this Section and with the orders of the
19 Commission under this Section, or the order of the court on
20 review after final adjudication, the Commission may bring a
21 civil action to recover the amount of the penalty in Cook
22 County or in Sangamon County in which litigation the Commission
23 shall be represented by the Attorney General. The Commission
24 shall send notice of its finding of non-compliance and
25 assessment of the civil penalty to the Attorney General. It
26 shall be the duty of the Attorney General within 30 days after

1 receipt of the notice, to institute prosecutions and promptly
2 prosecute all reported violations of this Section.

3 Any individual employer, corporate officer or director of a
4 corporate employer, partner of an employer partnership, or
5 member of an employer limited liability company who, with the
6 intent to avoid payment of compensation under this Act to an
7 injured employee or the employee's dependents, knowingly
8 transfers, sells, encumbers, assigns, or in any manner disposes
9 of, conceals, secretes, or destroys any property belonging to
10 the employer, officer, director, partner, or member is guilty
11 of a Class 4 felony.

12 Penalties and fines collected pursuant to this paragraph
13 (d) shall be deposited upon receipt into a special fund which
14 shall be designated the Injured Workers' Benefit Fund, of which
15 the State Treasurer is ex-officio custodian, such special fund
16 to be held and disbursed in accordance with this paragraph (d)
17 for the purposes hereinafter stated in this paragraph (d), upon
18 the final order of the Commission. The Injured Workers' Benefit
19 Fund shall be deposited the same as are State funds and any
20 interest accruing thereon shall be added thereto every 6
21 months. The Injured Workers' Benefit Fund is subject to audit
22 the same as State funds and accounts and is protected by the
23 general bond given by the State Treasurer. The Injured Workers'
24 Benefit Fund is considered always appropriated for the purposes
25 of disbursements as provided in this paragraph, and shall be
26 paid out and disbursed as herein provided and shall not at any

1 time be appropriated or diverted to any other use or purpose.
2 Moneys in the Injured Workers' Benefit Fund shall be used only
3 for payment of workers' compensation benefits for injured
4 employees when the employer has failed to provide coverage as
5 determined under this paragraph (d) and has failed to pay the
6 benefits due to the injured employee. The Commission shall have
7 the right to obtain reimbursement from the employer for
8 compensation obligations paid by the Injured Workers' Benefit
9 Fund. Any such amounts obtained shall be deposited by the
10 Commission into the Injured Workers' Benefit Fund. If an
11 injured employee or his or her personal representative receives
12 payment from the Injured Workers' Benefit Fund, the State of
13 Illinois has the same rights under paragraph (b) of Section 5
14 that the employer who failed to pay the benefits due to the
15 injured employee would have had if the employer had paid those
16 benefits, and any moneys recovered by the State as a result of
17 the State's exercise of its rights under paragraph (b) of
18 Section 5 shall be deposited into the Injured Workers' Benefit
19 Fund. The custodian of the Injured Workers' Benefit Fund shall
20 be joined with the employer as a party respondent in the
21 application for adjustment of claim. After July 1, 2006, the
22 Commission shall make disbursements from the Fund once each
23 year to each eligible claimant. An eligible claimant is an
24 injured worker who has within the previous fiscal year obtained
25 a final award for benefits from the Commission against the
26 employer and the Injured Workers' Benefit Fund and has notified

1 the Commission within 90 days of receipt of such award. Within
2 a reasonable time after the end of each fiscal year, the
3 Commission shall make a disbursement to each eligible claimant.
4 At the time of disbursement, if there are insufficient moneys
5 in the Fund to pay all claims, each eligible claimant shall
6 receive a pro-rata share, as determined by the Commission, of
7 the available moneys in the Fund for that year. Payment from
8 the Injured Workers' Benefit Fund to an eligible claimant
9 pursuant to this provision shall discharge the obligations of
10 the Injured Workers' Benefit Fund regarding the award entered
11 by the Commission.

12 (e) This Act shall not affect or disturb the continuance of
13 any existing insurance, mutual aid, benefit, or relief
14 association or department, whether maintained in whole or in
15 part by the employer or whether maintained by the employees,
16 the payment of benefits of such association or department being
17 guaranteed by the employer or by some person, firm or
18 corporation for him or her: Provided, the employer contributes
19 to such association or department an amount not less than the
20 full compensation herein provided, exclusive of the cost of the
21 maintenance of such association or department and without any
22 expense to the employee. This Act shall not prevent the
23 organization and maintaining under the insurance laws of this
24 State of any benefit or insurance company for the purpose of
25 insuring against the compensation provided for in this Act, the
26 expense of which is maintained by the employer. This Act shall

1 not prevent the organization or maintaining under the insurance
2 laws of this State of any voluntary mutual aid, benefit or
3 relief association among employees for the payment of
4 additional accident or sick benefits.

5 (f) No existing insurance, mutual aid, benefit or relief
6 association or department shall, by reason of anything herein
7 contained, be authorized to discontinue its operation without
8 first discharging its obligations to any and all persons
9 carrying insurance in the same or entitled to relief or
10 benefits therein.

11 (g) Any contract, oral, written or implied, of employment
12 providing for relief benefit, or insurance or any other device
13 whereby the employee is required to pay any premium or premiums
14 for insurance against the compensation provided for in this Act
15 shall be null and void. Any employer withholding from the wages
16 of any employee any amount for the purpose of paying any such
17 premium shall be guilty of a Class B misdemeanor.

18 In the event the employer does not pay the compensation for
19 which he or she is liable, then an insurance company,
20 association or insurer which may have insured such employer
21 against such liability shall become primarily liable to pay to
22 the employee, his or her personal representative or beneficiary
23 the compensation required by the provisions of this Act to be
24 paid by such employer. The insurance carrier may be made a
25 party to the proceedings in which the employer is a party and
26 an award may be entered jointly against the employer and the

1 insurance carrier.

2 (h) It shall be unlawful for any employer, insurance
3 company or service or adjustment company to interfere with,
4 restrain or coerce an employee in any manner whatsoever in the
5 exercise of the rights or remedies granted to him or her by
6 this Act or to discriminate, attempt to discriminate, or
7 threaten to discriminate against an employee in any way because
8 of his or her exercise of the rights or remedies granted to him
9 or her by this Act.

10 It shall be unlawful for any employer, individually or
11 through any insurance company or service or adjustment company,
12 to discharge or to threaten to discharge, or to refuse to
13 rehire or recall to active service in a suitable capacity an
14 employee because of the exercise of his or her rights or
15 remedies granted to him or her by this Act.

16 (i) If an employer elects to obtain a life insurance policy
17 on his employees, he may also elect to apply such benefits in
18 satisfaction of all or a portion of the death benefits payable
19 under this Act, in which case, the employer's compensation
20 premium shall be reduced accordingly.

21 (j) Within 45 days of receipt of an initial application or
22 application to renew self-insurance privileges the
23 Self-Insurers Advisory Board shall review and submit for
24 approval by the Chairman of the Commission recommendations of
25 disposition of all initial applications to self-insure and all
26 applications to renew self-insurance privileges filed by

1 private self-insurers pursuant to the provisions of this
2 Section and Section 4a-9 of this Act. Each private self-insurer
3 shall submit with its initial and renewal applications the
4 application fee required by Section 4a-4 of this Act.

5 The Chairman of the Commission shall promptly act upon all
6 initial applications and applications for renewal in full
7 accordance with the recommendations of the Board or, should the
8 Chairman disagree with any recommendation of disposition of the
9 Self-Insurer's Advisory Board, he shall within 30 days of
10 receipt of such recommendation provide to the Board in writing
11 the reasons supporting his decision. The Chairman shall also
12 promptly notify the employer of his decision within 15 days of
13 receipt of the recommendation of the Board.

14 If an employer is denied a renewal of self-insurance
15 privileges pursuant to application it shall retain said
16 privilege for 120 days after receipt of a notice of
17 cancellation of the privilege from the Chairman of the
18 Commission.

19 All orders made by the Chairman under this Section shall be
20 subject to review by the courts, such review to be taken in the
21 same manner and within the same time as provided by subsection
22 (f) of Section 19 of this Act for review of awards and
23 decisions of the Commission, upon the party seeking the review
24 filing with the clerk of the court to which such review is
25 taken a bond in an amount to be fixed and approved by the court
26 to which the review is taken, conditioned upon the payment of

1 all compensation awarded against the person taking such review
2 pending a decision thereof and further conditioned upon such
3 other obligations as the court may impose. Upon the review the
4 Circuit Court shall have power to review all questions of fact
5 as well as of law.

6 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
7 94-839, eff. 6-6-06.)

8 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

9 Sec. 8. The amount of compensation which shall be paid to
10 the employee for an accidental injury not resulting in death
11 is:

12 (a) The employer shall provide and pay the negotiated rate,
13 if applicable, or the lesser of the health care provider's
14 actual charges or according to a fee schedule, subject to
15 Section 8.2, in effect at the time the service was rendered for
16 all the necessary first aid, medical and surgical services, and
17 all necessary medical, surgical and hospital services
18 thereafter incurred, limited, however, to that which is
19 reasonably required to cure or relieve from the effects of the
20 accidental injury, even if a health care provider sells,
21 transfers, or otherwise assigns an account receivable for
22 procedures, treatments, or services covered under this Act. If
23 the employer does not dispute payment of first aid, medical,
24 surgical, and hospital services, the employer shall make such
25 payment to the provider on behalf of the employee. The employer

1 shall also pay for treatment, instruction and training
2 necessary for the physical, mental and vocational
3 rehabilitation of the employee, including all maintenance
4 costs and expenses incidental thereto. If as a result of the
5 injury the employee is unable to be self-sufficient the
6 employer shall further pay for such maintenance or
7 institutional care as shall be required.

8 The employer shall select the employee's first physician,
9 surgeon, or provider of hospital services at the employer's
10 expense. However, in the event the employer fails to exercise
11 his, her, or its right to select the first physician, surgeon,
12 or provider of hospital services or where it is impracticable
13 for the employer to exercise this right, the selection shall be
14 made by the employee at the employer's expense. In the event
15 the employee is dissatisfied with the first physician, surgeon,
16 or provider of hospital services, the employee has an absolute
17 right to select a second physician, surgeon, or provider of
18 hospital services at the employer's expense. Emergency
19 services and "chains-of-referral" shall not constitute a
20 choice of physician, surgeon, or provider of hospital services
21 by the employer or employee. ~~The employee may at any time elect~~
22 ~~to secure his own physician, surgeon and hospital services at~~
23 ~~the employer's expense, or,~~

24 Notwithstanding the foregoing, upon ~~Upon~~ agreement between
25 the employer and the employees, or the employees' exclusive
26 representative, and subject to the approval of the Illinois

1 Workers' Compensation Commission, the employer shall maintain
2 a list of physicians, to be known as a Panel of Physicians, who
3 are accessible to the employees. The employer shall post this
4 list in a place or places easily accessible to his employees.
5 The employee shall have the right to make an alternative choice
6 of physician from such Panel if he is not satisfied with the
7 physician first selected. If, due to the nature of the injury
8 or its occurrence away from the employer's place of business,
9 the employee is unable to make a selection from the Panel, the
10 selection process from the Panel shall not apply. The physician
11 selected from the Panel may arrange for any consultation,
12 referral or other specialized medical services outside the
13 Panel at the employer's expense. Provided that, in the event
14 the Commission shall find that a doctor selected by the
15 employee is rendering improper or inadequate care, the
16 Commission may order the employee to select another doctor
17 certified or qualified in the medical field for which treatment
18 is required. If the employee refuses to make such change the
19 Commission may relieve the employer of his obligation to pay
20 the doctor's charges from the date of refusal to the date of
21 compliance.

22 Any vocational rehabilitation counselors who provide
23 service under this Act shall have appropriate certifications
24 which designate the counselor as qualified to render opinions
25 relating to vocational rehabilitation. Vocational
26 rehabilitation may include, but is not limited to, counseling

1 for job searches, supervising a job search program, and
2 vocational retraining including education at an accredited
3 learning institution. The employee or employer may petition to
4 the Commission to decide disputes relating to vocational
5 rehabilitation and the Commission shall resolve any such
6 dispute, including payment of the vocational rehabilitation
7 program by the employer.

8 The maintenance benefit shall not be less than the
9 temporary total disability rate determined for the employee. In
10 addition, maintenance shall include costs and expenses
11 incidental to the vocational rehabilitation program.

12 When the employee is working light duty on a part-time
13 basis or full-time basis and earns less than he or she would be
14 earning if employed in the full capacity of the job or jobs,
15 then the employee shall be entitled to temporary partial
16 disability benefits. Temporary partial disability benefits
17 shall be equal to two-thirds of the difference between the
18 average amount that the employee would be able to earn in the
19 full performance of his or her duties in the occupation in
20 which he or she was engaged at the time of accident and the net
21 amount which he or she is earning in the modified job provided
22 to the employee by the employer or in any other job that the
23 employee is working.

24 Every hospital, physician, surgeon or other person
25 rendering treatment or services in accordance with the
26 provisions of this Section shall upon written request furnish

1 full and complete reports thereof to, and permit their records
2 to be copied by, the employer, the employee or his dependents,
3 as the case may be, or any other party to any proceeding for
4 compensation before the Commission, or their attorneys.

5 Notwithstanding the foregoing, the employer's liability to
6 pay for such medical services ~~selected by the employee~~ shall be
7 limited to:

8 (1) all first aid and emergency treatment; plus

9 (2) all medical, surgical and hospital services
10 provided by the first physician, surgeon or hospital
11 ~~initially chosen by the employee~~ or by any other physician,
12 consultant, expert, institution or other provider of
13 services recommended by said initial service provider or
14 any subsequent provider of medical services in the chain of
15 referrals from said initial service provider; plus

16 (3) all medical, surgical and hospital services
17 provided by any second physician, surgeon or hospital
18 subsequently chosen by the employee or by any other
19 physician, consultant, expert, institution or other
20 provider of services recommended by said second service
21 provider or any subsequent provider of medical services in
22 the chain of referrals from said second service provider.

23 Thereafter the employer shall select and pay for all
24 necessary medical, surgical and hospital treatment and the
25 employee may not select a provider of medical services at
26 the employer's expense unless the employer agrees to such

1 selection.

2 At any time the employee may obtain any medical treatment
3 he desires at his own expense. This paragraph shall not affect
4 the duty to pay for rehabilitation referred to above.

5 When an employer and employee so agree in writing, nothing
6 in this Act prevents an employee whose injury or disability has
7 been established under this Act, from relying in good faith, on
8 treatment by prayer or spiritual means alone, in accordance
9 with the tenets and practice of a recognized church or
10 religious denomination, by a duly accredited practitioner
11 thereof, and having nursing services appropriate therewith,
12 without suffering loss or diminution of the compensation
13 benefits under this Act. However, the employee shall submit to
14 all physical examinations required by this Act. The cost of
15 such treatment and nursing care shall be paid by the employee
16 unless the employer agrees to make such payment.

17 Where the accidental injury results in the amputation of an
18 arm, hand, leg or foot, or the enucleation of an eye, or the
19 loss of any of the natural teeth, the employer shall furnish an
20 artificial of any such members lost or damaged in accidental
21 injury arising out of and in the course of employment, and
22 shall also furnish the necessary braces in all proper and
23 necessary cases. In cases of the loss of a member or members by
24 amputation, the employer shall, whenever necessary, maintain
25 in good repair, refit or replace the artificial limbs during
26 the lifetime of the employee. Where the accidental injury

1 accompanied by physical injury results in damage to a denture,
2 eye glasses or contact eye lenses, or where the accidental
3 injury results in damage to an artificial member, the employer
4 shall replace or repair such denture, glasses, lenses, or
5 artificial member.

6 The furnishing by the employer of any such services or
7 appliances is not an admission of liability on the part of the
8 employer to pay compensation.

9 The furnishing of any such services or appliances or the
10 servicing thereof by the employer is not the payment of
11 compensation.

12 (b) If the period of temporary total incapacity for work
13 lasts more than 3 working days, weekly compensation as
14 hereinafter provided shall be paid beginning on the 4th day of
15 such temporary total incapacity and continuing as long as the
16 total temporary incapacity lasts. In cases where the temporary
17 total incapacity for work continues for a period of 14 days or
18 more from the day of the accident compensation shall commence
19 on the day after the accident.

20 1. The compensation rate for temporary total
21 incapacity under this paragraph (b) of this Section shall
22 be equal to 66 2/3% of the employee's average weekly wage
23 computed in accordance with Section 10, provided that it
24 shall be not less than 66 2/3% of the sum of the Federal
25 minimum wage under the Fair Labor Standards Act, or the
26 Illinois minimum wage under the Minimum Wage Law, whichever

1 is more, multiplied by 40 hours. This percentage rate shall
2 be increased by 10% for each spouse and child, not to
3 exceed 100% of the total minimum wage calculation,
4 nor exceed the employee's average weekly wage computed in
5 accordance with the provisions of Section 10, whichever is
6 less.

7 2. The compensation rate in all cases other than for
8 temporary total disability under this paragraph (b), and
9 other than for serious and permanent disfigurement under
10 paragraph (c) and other than for permanent partial
11 disability under subparagraph (2) of paragraph (d) or under
12 paragraph (e), of this Section shall be equal to 66 2/3% of
13 the employee's average weekly wage computed in accordance
14 with the provisions of Section 10, provided that it shall
15 be not less than 66 2/3% of the sum of the Federal minimum
16 wage under the Fair Labor Standards Act, or the Illinois
17 minimum wage under the Minimum Wage Law, whichever is more,
18 multiplied by 40 hours. This percentage rate shall be
19 increased by 10% for each spouse and child, not to exceed
20 100% of the total minimum wage calculation,
21 nor exceed the employee's average weekly wage computed in
22 accordance with the provisions of Section 10, whichever is
23 less.

24 2.1. The compensation rate in all cases of serious and
25 permanent disfigurement under paragraph (c) and of
26 permanent partial disability under subparagraph (2) of

1 paragraph (d) or under paragraph (e) of this Section shall
2 be equal to 60% of the employee's average weekly wage
3 computed in accordance with the provisions of Section 10,
4 provided that it shall be not less than 66 2/3% of the sum
5 of the Federal minimum wage under the Fair Labor Standards
6 Act, or the Illinois minimum wage under the Minimum Wage
7 Law, whichever is more, multiplied by 40 hours. This
8 percentage rate shall be increased by 10% for each spouse
9 and child, not to exceed 100% of the total minimum wage
10 calculation,

11 nor exceed the employee's average weekly wage computed in
12 accordance with the provisions of Section 10, whichever is
13 less.

14 3. As used in this Section the term "child" means a
15 child of the employee including any child legally adopted
16 before the accident or whom at the time of the accident the
17 employee was under legal obligation to support or to whom
18 the employee stood in loco parentis, and who at the time of
19 the accident was under 18 years of age and not emancipated.
20 The term "children" means the plural of "child".

21 4. All weekly compensation rates provided under
22 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this
23 Section shall be subject to the following limitations:

24 The maximum weekly compensation rate from July 1, 1975,
25 except as hereinafter provided, shall be 100% of the
26 State's average weekly wage in covered industries under the

1 Unemployment Insurance Act, that being the wage that most
2 closely approximates the State's average weekly wage.

3 The maximum weekly compensation rate, for the period
4 July 1, 1984, through June 30, 1987, except as hereinafter
5 provided, shall be \$293.61. Effective July 1, 1987 and on
6 July 1 of each year thereafter the maximum weekly
7 compensation rate, except as hereinafter provided, shall
8 be determined as follows: if during the preceding 12 month
9 period there shall have been an increase in the State's
10 average weekly wage in covered industries under the
11 Unemployment Insurance Act, the weekly compensation rate
12 shall be proportionately increased by the same percentage
13 as the percentage of increase in the State's average weekly
14 wage in covered industries under the Unemployment
15 Insurance Act during such period.

16 The maximum weekly compensation rate, for the period
17 January 1, 1981 through December 31, 1983, except as
18 hereinafter provided, shall be 100% of the State's average
19 weekly wage in covered industries under the Unemployment
20 Insurance Act in effect on January 1, 1981. Effective
21 January 1, 1984 and on January 1, of each year thereafter
22 the maximum weekly compensation rate, except as
23 hereinafter provided, shall be determined as follows: if
24 during the preceding 12 month period there shall have been
25 an increase in the State's average weekly wage in covered
26 industries under the Unemployment Insurance Act, the

1 weekly compensation rate shall be proportionately
2 increased by the same percentage as the percentage of
3 increase in the State's average weekly wage in covered
4 industries under the Unemployment Insurance Act during
5 such period.

6 From July 1, 1977 and thereafter such maximum weekly
7 compensation rate in death cases under Section 7, and
8 permanent total disability cases under paragraph (f) or
9 subparagraph 18 of paragraph (3) of this Section and for
10 temporary total disability under paragraph (b) of this
11 Section and for amputation of a member or enucleation of an
12 eye under paragraph (e) of this Section shall be increased
13 to 133-1/3% of the State's average weekly wage in covered
14 industries under the Unemployment Insurance Act.

15 For injuries occurring on or after February 1, 2006,
16 the maximum weekly benefit under paragraph (d)1 of this
17 Section shall be 100% of the State's average weekly wage in
18 covered industries under the Unemployment Insurance Act.

19 4.1. Any provision herein to the contrary
20 notwithstanding, the weekly compensation rate for
21 compensation payments under subparagraph 18 of paragraph
22 (e) of this Section and under paragraph (f) of this Section
23 and under paragraph (a) of Section 7 and for amputation of
24 a member or enucleation of an eye under paragraph (e) of
25 this Section, shall in no event be less than 50% of the
26 State's average weekly wage in covered industries under the

1 Unemployment Insurance Act.

2 4.2. Any provision to the contrary notwithstanding,
3 the total compensation payable under Section 7 shall not
4 exceed the greater of \$500,000 or 25 years.

5 5. For the purpose of this Section this State's average
6 weekly wage in covered industries under the Unemployment
7 Insurance Act on July 1, 1975 is hereby fixed at \$228.16
8 per week and the computation of compensation rates shall be
9 based on the aforesaid average weekly wage until modified
10 as hereinafter provided.

11 6. The Department of Employment Security of the State
12 shall on or before the first day of December, 1977, and on
13 or before the first day of June, 1978, and on the first day
14 of each December and June of each year thereafter, publish
15 the State's average weekly wage in covered industries under
16 the Unemployment Insurance Act and the Illinois Workers'
17 Compensation Commission shall on the 15th day of January,
18 1978 and on the 15th day of July, 1978 and on the 15th day
19 of each January and July of each year thereafter, post and
20 publish the State's average weekly wage in covered
21 industries under the Unemployment Insurance Act as last
22 determined and published by the Department of Employment
23 Security. The amount when so posted and published shall be
24 conclusive and shall be applicable as the basis of
25 computation of compensation rates until the next posting
26 and publication as aforesaid.

1 7. The payment of compensation by an employer or his
2 insurance carrier to an injured employee shall not
3 constitute an admission of the employer's liability to pay
4 compensation.

5 (c) For any serious and permanent disfigurement to the
6 hand, head, face, neck, arm, leg below the knee or the chest
7 above the axillary line, the employee is entitled to
8 compensation for such disfigurement, the amount determined by
9 agreement at any time or by arbitration under this Act, at a
10 hearing not less than 6 months after the date of the accidental
11 injury, which amount shall not exceed 150 weeks (if the
12 accidental injury occurs on or after the effective date of this
13 amendatory Act of the 94th General Assembly but before February
14 1, 2006) or 162 weeks (if the accidental injury occurs on or
15 after February 1, 2006) at the applicable rate provided in
16 subparagraph 2.1 of paragraph (b) of this Section.

17 No compensation is payable under this paragraph where
18 compensation is payable under paragraphs (d), (e) or (f) of
19 this Section.

20 A duly appointed member of a fire department in a city, the
21 population of which exceeds 200,000 according to the last
22 federal or State census, is eligible for compensation under
23 this paragraph only where such serious and permanent
24 disfigurement results from burns.

25 (d) 1. If, after the accidental injury has been sustained,
26 the employee as a result thereof becomes partially

1 incapacitated from pursuing his usual and customary line of
2 employment, he shall, except in cases compensated under the
3 specific schedule set forth in paragraph (e) of this Section,
4 receive compensation for the duration of his disability,
5 subject to the limitations as to maximum amounts fixed in
6 paragraph (b) of this Section, equal to 66-2/3% of the
7 difference between the average amount which he would be able to
8 earn in the full performance of his duties in the occupation in
9 which he was engaged at the time of the accident and the
10 average amount which he is earning or is able to earn in some
11 suitable employment or business after the accident. An award
12 for wage differential under this subsection shall be effective
13 only until the employee reaches the age of 67 or 5 years from
14 the date the award becomes final, whichever is later. In
15 addition, after a wage differential award under this paragraph
16 (d)1 becomes final, the employer shall, on no more than a
17 quarter annual basis, upon written request to the employee, be
18 entitled to verification of an employee's current employment
19 status and earnings, including the name and address of the
20 employee's current employer, rate of pay or method of
21 compensation, duration of such employment, and true copies of
22 the employee's paychecks or other evidence of payment for the
23 duration of such employment. An employer may also request that
24 the employee sign an authorization to permit the employer to
25 then obtain from the employee's current employer the employee's
26 earnings and payroll documentation. Notwithstanding and in

1 addition to Section 19(h), a final award for wage differential
2 under this paragraph (d)1 may at any time be reviewed by the
3 Commission in an evidentiary hearing at the request of the
4 employer or employee on the grounds that there has been a
5 subsequent material change in the difference between the
6 average amount the employee would be able to earn currently in
7 the full performance of his or her duties in the occupation in
8 which the employee was engaged at the time of the accident and
9 the average amount the employee is earning currently in some
10 suitable employment or business after the accident. After
11 review under this paragraph (d)1, the Commission may modify or
12 vacate a final wage differential award. Such modification or
13 vacation shall be based on a material change in the employee's
14 current job earnings or a material change in the job earnings
15 the employee would be receiving currently in the full
16 performance of his or her duties in the occupation in which the
17 employee was engaged at the time of the accident.

18 2. If, as a result of the accident, the employee sustains
19 serious and permanent injuries not covered by paragraphs (c)
20 and (e) of this Section or having sustained injuries covered by
21 the aforesaid paragraphs (c) and (e), he shall have sustained
22 in addition thereto other injuries which injuries do not
23 incapacitate him from pursuing the duties of his employment but
24 which would disable him from pursuing other suitable
25 occupations, or which have otherwise resulted in physical
26 impairment; or if such injuries partially incapacitate him from

1 pursuing the duties of his usual and customary line of
2 employment but do not result in an impairment of earning
3 capacity, or having resulted in an impairment of earning
4 capacity, the employee elects to waive his right to recover
5 under the foregoing subparagraph 1 of paragraph (d) of this
6 Section then in any of the foregoing events, he shall receive
7 in addition to compensation for temporary total disability
8 under paragraph (b) of this Section, compensation at the rate
9 provided in subparagraph 2.1 of paragraph (b) of this Section
10 for that percentage of 500 weeks that the partial disability
11 resulting from the injuries covered by this paragraph bears to
12 total disability. If the employee shall have sustained a
13 fracture of one or more vertebra or fracture of the skull, the
14 amount of compensation allowed under this Section shall be not
15 less than 6 weeks for a fractured skull and 6 weeks for each
16 fractured vertebra, and in the event the employee shall have
17 sustained a fracture of any of the following facial bones:
18 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
19 mandible, the amount of compensation allowed under this Section
20 shall be not less than 2 weeks for each such fractured bone,
21 and for a fracture of each transverse process not less than 3
22 weeks. In the event such injuries shall result in the loss of a
23 kidney, spleen or lung, the amount of compensation allowed
24 under this Section shall be not less than 10 weeks for each
25 such organ. Compensation awarded under this subparagraph 2
26 shall not take into consideration injuries covered under

1 paragraphs (c) and (e) of this Section and the compensation
2 provided in this paragraph shall not affect the employee's
3 right to compensation payable under paragraphs (b), (c) and (e)
4 of this Section for the disabilities therein covered.

5 (e) For accidental injuries in the following schedule, the
6 employee shall receive compensation for the period of temporary
7 total incapacity for work resulting from such accidental
8 injury, under subparagraph 1 of paragraph (b) of this Section,
9 and shall receive in addition thereto compensation for a
10 further period for the specific loss herein mentioned, but
11 shall not receive any compensation under any other provisions
12 of this Act. The following listed amounts apply to either the
13 loss of or the permanent and complete loss of use of the member
14 specified, such compensation for the length of time as follows:

15 1. Thumb-

16 70 weeks if the accidental injury occurs on or
17 after the effective date of this amendatory Act of the
18 94th General Assembly but before February 1, 2006.

19 76 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 2. First, or index finger-

22 40 weeks if the accidental injury occurs on or
23 after the effective date of this amendatory Act of the
24 94th General Assembly but before February 1, 2006.

25 43 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 3. Second, or middle finger-

2 35 weeks if the accidental injury occurs on or
3 after the effective date of this amendatory Act of the
4 94th General Assembly but before February 1, 2006.

5 38 weeks if the accidental injury occurs on or
6 after February 1, 2006.

7 4. Third, or ring finger-

8 25 weeks if the accidental injury occurs on or
9 after the effective date of this amendatory Act of the
10 94th General Assembly but before February 1, 2006.

11 27 weeks if the accidental injury occurs on or
12 after February 1, 2006.

13 5. Fourth, or little finger-

14 20 weeks if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the
16 94th General Assembly but before February 1, 2006.

17 22 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 6. Great toe-

20 35 weeks if the accidental injury occurs on or
21 after the effective date of this amendatory Act of the
22 94th General Assembly but before February 1, 2006.

23 38 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 7. Each toe other than great toe-

26 12 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the
2 94th General Assembly but before February 1, 2006.

3 13 weeks if the accidental injury occurs on or
4 after February 1, 2006.

5 8. The loss of the first or distal phalanx of the thumb
6 or of any finger or toe shall be considered to be equal to
7 the loss of one-half of such thumb, finger or toe and the
8 compensation payable shall be one-half of the amount above
9 specified. The loss of more than one phalanx shall be
10 considered as the loss of the entire thumb, finger or toe.
11 In no case shall the amount received for more than one
12 finger exceed the amount provided in this schedule for the
13 loss of a hand.

14 9. Hand-

15 190 weeks if the accidental injury occurs on or
16 after the effective date of this amendatory Act of the
17 94th General Assembly but before February 1, 2006.

18 205 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 The loss of 2 or more digits, or one or more phalanges
21 of 2 or more digits, of a hand may be compensated on the
22 basis of partial loss of use of a hand, provided, further,
23 that the loss of 4 digits, or the loss of use of 4 digits,
24 in the same hand shall constitute the complete loss of a
25 hand.

26 10. Arm-

1 235 weeks if the accidental injury occurs on or
2 after the effective date of this amendatory Act of the
3 94th General Assembly but before February 1, 2006.

4 253 weeks if the accidental injury occurs on or
5 after February 1, 2006.

6 Where an accidental injury results in the amputation of
7 an arm below the elbow, such injury shall be compensated as
8 a loss of an arm. Where an accidental injury results in the
9 amputation of an arm above the elbow, compensation for an
10 additional 15 weeks (if the accidental injury occurs on or
11 after the effective date of this amendatory Act of the 94th
12 General Assembly but before February 1, 2006) or an
13 additional 17 weeks (if the accidental injury occurs on or
14 after February 1, 2006) shall be paid, except where the
15 accidental injury results in the amputation of an arm at
16 the shoulder joint, or so close to shoulder joint that an
17 artificial arm cannot be used, or results in the
18 disarticulation of an arm at the shoulder joint, in which
19 case compensation for an additional 65 weeks (if the
20 accidental injury occurs on or after the effective date of
21 this amendatory Act of the 94th General Assembly but before
22 February 1, 2006) or an additional 70 weeks (if the
23 accidental injury occurs on or after February 1, 2006)
24 shall be paid.

25 11. Foot-

26 155 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the
2 94th General Assembly but before February 1, 2006.

3 167 weeks if the accidental injury occurs on or
4 after February 1, 2006.

5 12. Leg-

6 200 weeks if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the
8 94th General Assembly but before February 1, 2006.

9 215 weeks if the accidental injury occurs on or
10 after February 1, 2006.

11 Where an accidental injury results in the amputation of
12 a leg below the knee, such injury shall be compensated as
13 loss of a leg. Where an accidental injury results in the
14 amputation of a leg above the knee, compensation for an
15 additional 25 weeks (if the accidental injury occurs on or
16 after the effective date of this amendatory Act of the 94th
17 General Assembly but before February 1, 2006) or an
18 additional 27 weeks (if the accidental injury occurs on or
19 after February 1, 2006) shall be paid, except where the
20 accidental injury results in the amputation of a leg at the
21 hip joint, or so close to the hip joint that an artificial
22 leg cannot be used, or results in the disarticulation of a
23 leg at the hip joint, in which case compensation for an
24 additional 75 weeks (if the accidental injury occurs on or
25 after the effective date of this amendatory Act of the 94th
26 General Assembly but before February 1, 2006) or an

1 additional 81 weeks (if the accidental injury occurs on or
2 after February 1, 2006) shall be paid.

3 13. Eye-

4 150 weeks if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the
6 94th General Assembly but before February 1, 2006.

7 162 weeks if the accidental injury occurs on or
8 after February 1, 2006.

9 Where an accidental injury results in the enucleation
10 of an eye, compensation for an additional 10 weeks (if the
11 accidental injury occurs on or after the effective date of
12 this amendatory Act of the 94th General Assembly but before
13 February 1, 2006) or an additional 11 weeks (if the
14 accidental injury occurs on or after February 1, 2006)
15 shall be paid.

16 14. Loss of hearing of one ear-

17 50 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 54 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 Total and permanent loss of hearing of both ears-

23 200 weeks if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the
25 94th General Assembly but before February 1, 2006.

26 215 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 15. Testicle-

3 50 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 54 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 Both testicles-

9 150 weeks if the accidental injury occurs on or
10 after the effective date of this amendatory Act of the
11 94th General Assembly but before February 1, 2006.

12 162 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 16. For the permanent partial loss of use of a member
15 or sight of an eye, or hearing of an ear, compensation
16 during that proportion of the number of weeks in the
17 foregoing schedule provided for the loss of such member or
18 sight of an eye, or hearing of an ear, which the partial
19 loss of use thereof bears to the total loss of use of such
20 member, or sight of eye, or hearing of an ear.

21 (a) Loss of hearing for compensation purposes
22 shall be confined to the frequencies of 1,000, 2,000
23 and 3,000 cycles per second. Loss of hearing ability
24 for frequency tones above 3,000 cycles per second are
25 not to be considered as constituting disability for
26 hearing.

1 (b) The percent of hearing loss, for purposes of
2 the determination of compensation claims for
3 occupational deafness, shall be calculated as the
4 average in decibels for the thresholds of hearing for
5 the frequencies of 1,000, 2,000 and 3,000 cycles per
6 second. Pure tone air conduction audiometric
7 instruments, approved by nationally recognized
8 authorities in this field, shall be used for measuring
9 hearing loss. If the losses of hearing average 30
10 decibels or less in the 3 frequencies, such losses of
11 hearing shall not then constitute any compensable
12 hearing disability. If the losses of hearing average 85
13 decibels or more in the 3 frequencies, then the same
14 shall constitute and be total or 100% compensable
15 hearing loss.

16 (c) In measuring hearing impairment, the lowest
17 measured losses in each of the 3 frequencies shall be
18 added together and divided by 3 to determine the
19 average decibel loss. For every decibel of loss
20 exceeding 30 decibels an allowance of 1.82% shall be
21 made up to the maximum of 100% which is reached at 85
22 decibels.

23 (d) If a hearing loss is established to have
24 existed on July 1, 1975 by audiometric testing the
25 employer shall not be liable for the previous loss so
26 established nor shall he be liable for any loss for

1 which compensation has been paid or awarded.

2 (e) No consideration shall be given to the question
3 of whether or not the ability of an employee to
4 understand speech is improved by the use of a hearing
5 aid.

6 (f) No claim for loss of hearing due to industrial
7 noise shall be brought against an employer or allowed
8 unless the employee has been exposed for a period of
9 time sufficient to cause permanent impairment to noise
10 levels in excess of the following:

11	Sound Level DBA	
12	Slow Response	Hours Per Day
13	90	8
14	92	6
15	95	4
16	97	3
17	100	2
18	102	1-1/2
19	105	1
20	110	1/2
21	115	1/4

22 This subparagraph (f) shall not be applied in cases of
23 hearing loss resulting from trauma or explosion.

24 17. In computing the compensation to be paid to any
25 employee who, before the accident for which he claims
26 compensation, had before that time sustained an injury

1 resulting in the loss by amputation or partial loss by
2 amputation of any member, including hand, arm, thumb or
3 fingers, leg, foot or any toes, such loss or partial loss
4 of any such member shall be deducted from any award made
5 for the subsequent injury. For the permanent loss of use or
6 the permanent partial loss of use of any such member or the
7 partial loss of sight of an eye, for which compensation has
8 been paid, then such loss shall be taken into consideration
9 and deducted from any award for the subsequent injury.

10 18. The specific case of loss of both hands, both arms,
11 or both feet, or both legs, or both eyes, or of any two
12 thereof, or the permanent and complete loss of the use
13 thereof, constitutes total and permanent disability, to be
14 compensated according to the compensation fixed by
15 paragraph (f) of this Section. These specific cases of
16 total and permanent disability do not exclude other cases.

17 Any employee who has previously suffered the loss or
18 permanent and complete loss of the use of any of such
19 members, and in a subsequent independent accident loses
20 another or suffers the permanent and complete loss of the
21 use of any one of such members the employer for whom the
22 injured employee is working at the time of the last
23 independent accident is liable to pay compensation only for
24 the loss or permanent and complete loss of the use of the
25 member occasioned by the last independent accident.

26 19. In a case of specific loss and the subsequent death

1 of such injured employee from other causes than such injury
2 leaving a widow, widower, or dependents surviving before
3 payment or payment in full for such injury, then the amount
4 due for such injury is payable to the widow or widower and,
5 if there be no widow or widower, then to such dependents,
6 in the proportion which such dependency bears to total
7 dependency.

8 Beginning July 1, 1980, and every 6 months thereafter, the
9 Commission shall examine the Second Injury Fund and when, after
10 deducting all advances or loans made to such Fund, the amount
11 therein is \$500,000 then the amount required to be paid by
12 employers pursuant to paragraph (f) of Section 7 shall be
13 reduced by one-half. When the Second Injury Fund reaches the
14 sum of \$600,000 then the payments shall cease entirely.
15 However, when the Second Injury Fund has been reduced to
16 \$400,000, payment of one-half of the amounts required by
17 paragraph (f) of Section 7 shall be resumed, in the manner
18 herein provided, and when the Second Injury Fund has been
19 reduced to \$300,000, payment of the full amounts required by
20 paragraph (f) of Section 7 shall be resumed, in the manner
21 herein provided. The Commission shall make the changes in
22 payment effective by general order, and the changes in payment
23 become immediately effective for all cases coming before the
24 Commission thereafter either by settlement agreement or final
25 order, irrespective of the date of the accidental injury.

26 On August 1, 1996 and on February 1 and August 1 of each

1 subsequent year, the Commission shall examine the special fund
2 designated as the "Rate Adjustment Fund" and when, after
3 deducting all advances or loans made to said fund, the amount
4 therein is \$4,000,000, the amount required to be paid by
5 employers pursuant to paragraph (f) of Section 7 shall be
6 reduced by one-half. When the Rate Adjustment Fund reaches the
7 sum of \$5,000,000 the payment therein shall cease entirely.
8 However, when said Rate Adjustment Fund has been reduced to
9 \$3,000,000 the amounts required by paragraph (f) of Section 7
10 shall be resumed in the manner herein provided.

11 (f) In case of complete disability, which renders the
12 employee wholly and permanently incapable of work, or in the
13 specific case of total and permanent disability as provided in
14 subparagraph 18 of paragraph (e) of this Section, compensation
15 shall be payable at the rate provided in subparagraph 2 of
16 paragraph (b) of this Section for life.

17 An employee entitled to benefits under paragraph (f) of
18 this Section shall also be entitled to receive from the Rate
19 Adjustment Fund provided in paragraph (f) of Section 7 of the
20 supplementary benefits provided in paragraph (g) of this
21 Section 8.

22 If any employee who receives an award under this paragraph
23 afterwards returns to work or is able to do so, and earns or is
24 able to earn as much as before the accident, payments under
25 such award shall cease. If such employee returns to work, or is
26 able to do so, and earns or is able to earn part but not as much

1 as before the accident, such award shall be modified so as to
2 conform to an award under paragraph (d) of this Section. If
3 such award is terminated or reduced under the provisions of
4 this paragraph, such employees have the right at any time
5 within 30 months after the date of such termination or
6 reduction to file petition with the Commission for the purpose
7 of determining whether any disability exists as a result of the
8 original accidental injury and the extent thereof.

9 Disability as enumerated in subdivision 18, paragraph (e)
10 of this Section is considered complete disability.

11 If an employee who had previously incurred loss or the
12 permanent and complete loss of use of one member, through the
13 loss or the permanent and complete loss of the use of one hand,
14 one arm, one foot, one leg, or one eye, incurs permanent and
15 complete disability through the loss or the permanent and
16 complete loss of the use of another member, he shall receive,
17 in addition to the compensation payable by the employer and
18 after such payments have ceased, an amount from the Second
19 Injury Fund provided for in paragraph (f) of Section 7, which,
20 together with the compensation payable from the employer in
21 whose employ he was when the last accidental injury was
22 incurred, will equal the amount payable for permanent and
23 complete disability as provided in this paragraph of this
24 Section.

25 The custodian of the Second Injury Fund provided for in
26 paragraph (f) of Section 7 shall be joined with the employer as

1 a party respondent in the application for adjustment of claim.
2 The application for adjustment of claim shall state briefly and
3 in general terms the approximate time and place and manner of
4 the loss of the first member.

5 In its award the Commission or the Arbitrator shall
6 specifically find the amount the injured employee shall be
7 weekly paid, the number of weeks compensation which shall be
8 paid by the employer, the date upon which payments begin out of
9 the Second Injury Fund provided for in paragraph (f) of Section
10 7 of this Act, the length of time the weekly payments continue,
11 the date upon which the pension payments commence and the
12 monthly amount of the payments. The Commission shall 30 days
13 after the date upon which payments out of the Second Injury
14 Fund have begun as provided in the award, and every month
15 thereafter, prepare and submit to the State Comptroller a
16 voucher for payment for all compensation accrued to that date
17 at the rate fixed by the Commission. The State Comptroller
18 shall draw a warrant to the injured employee along with a
19 receipt to be executed by the injured employee and returned to
20 the Commission. The endorsed warrant and receipt is a full and
21 complete acquittance to the Commission for the payment out of
22 the Second Injury Fund. No other appropriation or warrant is
23 necessary for payment out of the Second Injury Fund. The Second
24 Injury Fund is appropriated for the purpose of making payments
25 according to the terms of the awards.

26 As of July 1, 1980 to July 1, 1982, all claims against and

1 obligations of the Second Injury Fund shall become claims
2 against and obligations of the Rate Adjustment Fund to the
3 extent there is insufficient money in the Second Injury Fund to
4 pay such claims and obligations. In that case, all references
5 to "Second Injury Fund" in this Section shall also include the
6 Rate Adjustment Fund.

7 (g) Every award for permanent total disability entered by
8 the Commission on and after July 1, 1965 under which
9 compensation payments shall become due and payable after the
10 effective date of this amendatory Act, and every award for
11 death benefits or permanent total disability entered by the
12 Commission on and after the effective date of this amendatory
13 Act shall be subject to annual adjustments as to the amount of
14 the compensation rate therein provided. Such adjustments shall
15 first be made on July 15, 1977, and all awards made and entered
16 prior to July 1, 1975 and on July 15 of each year thereafter.
17 In all other cases such adjustment shall be made on July 15 of
18 the second year next following the date of the entry of the
19 award and shall further be made on July 15 annually thereafter.
20 If during the intervening period from the date of the entry of
21 the award, or the last periodic adjustment, there shall have
22 been an increase in the State's average weekly wage in covered
23 industries under the Unemployment Insurance Act, the weekly
24 compensation rate shall be proportionately increased by the
25 same percentage as the percentage of increase in the State's
26 average weekly wage in covered industries under the

1 Unemployment Insurance Act. The increase in the compensation
2 rate under this paragraph shall in no event bring the total
3 compensation rate to an amount greater than the prevailing
4 maximum rate at the time that the annual adjustment is made.
5 Such increase shall be paid in the same manner as herein
6 provided for payments under the Second Injury Fund to the
7 injured employee, or his dependents, as the case may be, out of
8 the Rate Adjustment Fund provided in paragraph (f) of Section 7
9 of this Act. Payments shall be made at the same intervals as
10 provided in the award or, at the option of the Commission, may
11 be made in quarterly payment on the 15th day of January, April,
12 July and October of each year. In the event of a decrease in
13 such average weekly wage there shall be no change in the then
14 existing compensation rate. The within paragraph shall not
15 apply to cases where there is disputed liability and in which a
16 compromise lump sum settlement between the employer and the
17 injured employee, or his dependents, as the case may be, has
18 been duly approved by the Illinois Workers' Compensation
19 Commission.

20 Provided, that in cases of awards entered by the Commission
21 for injuries occurring before July 1, 1975, the increases in
22 the compensation rate adjusted under the foregoing provision of
23 this paragraph (g) shall be limited to increases in the State's
24 average weekly wage in covered industries under the
25 Unemployment Insurance Act occurring after July 1, 1975.

26 For every accident occurring on or after July 20, 2005 but

1 before the effective date of this amendatory Act of the 94th
2 General Assembly (Senate Bill 1283 of the 94th General
3 Assembly), the annual adjustments to the compensation rate in
4 awards for death benefits or permanent total disability, as
5 provided in this Act, shall be paid by the employer. The
6 adjustment shall be made by the employer on July 15 of the
7 second year next following the date of the entry of the award
8 and shall further be made on July 15 annually thereafter. If
9 during the intervening period from the date of the entry of the
10 award, or the last periodic adjustment, there shall have been
11 an increase in the State's average weekly wage in covered
12 industries under the Unemployment Insurance Act, the employer
13 shall increase the weekly compensation rate proportionately by
14 the same percentage as the percentage of increase in the
15 State's average weekly wage in covered industries under the
16 Unemployment Insurance Act. The increase in the compensation
17 rate under this paragraph shall in no event bring the total
18 compensation rate to an amount greater than the prevailing
19 maximum rate at the time that the annual adjustment is made. In
20 the event of a decrease in such average weekly wage there shall
21 be no change in the then existing compensation rate. Such
22 increase shall be paid by the employer in the same manner and
23 at the same intervals as the payment of compensation in the
24 award. This paragraph shall not apply to cases where there is
25 disputed liability and in which a compromise lump sum
26 settlement between the employer and the injured employee, or

1 his or her dependents, as the case may be, has been duly
2 approved by the Illinois Workers' Compensation Commission.

3 The annual adjustments for every award of death benefits or
4 permanent total disability involving accidents occurring
5 before July 20, 2005 and accidents occurring on or after the
6 effective date of this amendatory Act of the 94th General
7 Assembly (Senate Bill 1283 of the 94th General Assembly) shall
8 continue to be paid from the Rate Adjustment Fund pursuant to
9 this paragraph and Section 7(f) of this Act.

10 (h) In case death occurs from any cause before the total
11 compensation to which the employee would have been entitled has
12 been paid, then in case the employee leaves any widow, widower,
13 child, parent (or any grandchild, grandparent or other lineal
14 heir or any collateral heir dependent at the time of the
15 accident upon the earnings of the employee to the extent of 50%
16 or more of total dependency) such compensation shall be paid to
17 the beneficiaries of the deceased employee and distributed as
18 provided in paragraph (g) of Section 7.

19 (h-1) In case an injured employee is under legal disability
20 at the time when any right or privilege accrues to him or her
21 under this Act, a guardian may be appointed pursuant to law,
22 and may, on behalf of such person under legal disability, claim
23 and exercise any such right or privilege with the same effect
24 as if the employee himself or herself had claimed or exercised
25 the right or privilege. No limitations of time provided by this
26 Act run so long as the employee who is under legal disability

1 is without a conservator or guardian.

2 (i) In case the injured employee is under 16 years of age
3 at the time of the accident and is illegally employed, the
4 amount of compensation payable under paragraphs (b), (c), (d),
5 (e) and (f) of this Section is increased 50%.

6 However, where an employer has on file an employment
7 certificate issued pursuant to the Child Labor Law or work
8 permit issued pursuant to the Federal Fair Labor Standards Act,
9 as amended, or a birth certificate properly and duly issued,
10 such certificate, permit or birth certificate is conclusive
11 evidence as to the age of the injured minor employee for the
12 purposes of this Section.

13 Nothing herein contained repeals or amends the provisions
14 of the Child Labor Law relating to the employment of minors
15 under the age of 16 years.

16 (j) 1. In the event the injured employee receives benefits,
17 including medical, surgical or hospital benefits under any
18 group plan covering non-occupational disabilities contributed
19 to wholly or partially by the employer, which benefits should
20 not have been payable if any rights of recovery existed under
21 this Act, then such amounts so paid to the employee from any
22 such group plan as shall be consistent with, and limited to,
23 the provisions of paragraph 2 hereof, shall be credited to or
24 against any compensation payment for temporary total
25 incapacity for work or any medical, surgical or hospital
26 benefits made or to be made under this Act. In such event, the

1 period of time for giving notice of accidental injury and
2 filing application for adjustment of claim does not commence to
3 run until the termination of such payments. This paragraph does
4 not apply to payments made under any group plan which would
5 have been payable irrespective of an accidental injury under
6 this Act. Any employer receiving such credit shall keep such
7 employee safe and harmless from any and all claims or
8 liabilities that may be made against him by reason of having
9 received such payments only to the extent of such credit.

10 Any excess benefits paid to or on behalf of a State
11 employee by the State Employees' Retirement System under
12 Article 14 of the Illinois Pension Code on a death claim or
13 disputed disability claim shall be credited against any
14 payments made or to be made by the State of Illinois to or on
15 behalf of such employee under this Act, except for payments for
16 medical expenses which have already been incurred at the time
17 of the award. The State of Illinois shall directly reimburse
18 the State Employees' Retirement System to the extent of such
19 credit.

20 2. Nothing contained in this Act shall be construed to give
21 the employer or the insurance carrier the right to credit for
22 any benefits or payments received by the employee other than
23 compensation payments provided by this Act, and where the
24 employee receives payments other than compensation payments,
25 whether as full or partial salary, group insurance benefits,
26 bonuses, annuities or any other payments, the employer or

1 insurance carrier shall receive credit for each such payment
2 only to the extent of the compensation that would have been
3 payable during the period covered by such payment.

4 3. The extension of time for the filing of an Application
5 for Adjustment of Claim as provided in paragraph 1 above shall
6 not apply to those cases where the time for such filing had
7 expired prior to the date on which payments or benefits
8 enumerated herein have been initiated or resumed. Provided
9 however that this paragraph 3 shall apply only to cases wherein
10 the payments or benefits hereinabove enumerated shall be
11 received after July 1, 1969.

12 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
13 94-695, eff. 11-16-05.)

14 (820 ILCS 305/8.2)

15 Sec. 8.2. Fee schedule.

16 (a) Except as provided for in subsection (c), for
17 procedures, treatments, or services covered under this Act and
18 rendered or to be rendered on and after February 1, 2006, the
19 maximum allowable payment shall be 90% of the 80th percentile
20 of charges and fees as determined by the Commission utilizing
21 information provided by employers' and insurers' national
22 databases, with a minimum of 12,000,000 Illinois line item
23 charges and fees comprised of health care provider and hospital
24 charges and fees as of August 1, 2004 but not earlier than
25 August 1, 2002. These charges and fees are provider billed

1 amounts and shall not include discounted charges. The 80th
2 percentile is the point on an ordered data set from low to high
3 such that 80% of the cases are below or equal to that point and
4 at most 20% are above or equal to that point. The Commission
5 shall adjust these historical charges and fees as of August 1,
6 2004 by the Consumer Price Index-U for the period August 1,
7 2004 through September 30, 2005. The Commission shall establish
8 fee schedules for procedures, treatments, or services for
9 hospital inpatient, hospital outpatient, emergency room and
10 trauma, ambulatory surgical treatment centers, and
11 professional services. These charges and fees shall be
12 designated by geozip or any smaller geographic unit. The data
13 shall in no way identify or tend to identify any patient,
14 employer, or health care provider. As used in this Section,
15 "geozip" means a three-digit zip code based on data
16 similarities, geographical similarities, and frequencies. A
17 geozip does not cross state boundaries. As used in this
18 Section, "three-digit zip code" means a geographic area in
19 which all zip codes have the same first 3 digits. If a geozip
20 does not have the necessary number of charges and fees to
21 calculate a valid percentile for a specific procedure,
22 treatment, or service, the Commission may combine data from the
23 geozip with up to 4 other geozips that are demographically and
24 economically similar and exhibit similarities in data and
25 frequencies until the Commission reaches 9 charges or fees for
26 that specific procedure, treatment, or service. In cases where

1 the compiled data contains less than 9 charges or fees for a
2 procedure, treatment, or service, reimbursement shall occur at
3 76% of charges and fees as determined by the Commission in a
4 manner consistent with the provisions of this paragraph.
5 Providers of out-of-state procedures, treatments, services,
6 products, or supplies shall be reimbursed at the lesser of that
7 state's fee schedule amount or the fee schedule amount that
8 would apply to Cook County, Illinois. If no fee schedule exists
9 in that state, the provider shall be reimbursed at the lesser
10 of the actual charge or the fee schedule amount in Cook County,
11 Illinois ~~The Commission has the authority to set the maximum~~
12 ~~allowable payment to providers of out-of-state procedures,~~
13 ~~treatments, or services covered under this Act in a manner~~
14 ~~consistent with this Section.~~ Not later than September 30 in
15 2006 and each year thereafter, the Commission shall
16 automatically increase or decrease the maximum allowable
17 payment for a procedure, treatment, or service established and
18 in effect on January 1 of that year by the percentage change in
19 the Consumer Price Index-U for the 12 month period ending
20 August 31 of that year. The increase or decrease shall become
21 effective on January 1 of the following year. As used in this
22 Section, "Consumer Price Index-U" means the index published by
23 the Bureau of Labor Statistics of the U.S. Department of Labor,
24 that measures the average change in prices of all goods and
25 services purchased by all urban consumers, U.S. city average,
26 all items, 1982-84=100.

1 (a-1) Notwithstanding the provisions of subsection (a),
2 the following provisions shall apply to the medical fee
3 schedule starting on April 1, 2011:

4 (1) The Commission shall establish and maintain fee
5 schedules for procedures, treatments, products, services,
6 or supplies for hospital inpatient, hospital outpatient,
7 emergency room, ambulatory surgical treatment centers,
8 accredited ambulatory treatment facilities, prescriptions
9 filled and dispensed outside of a licensed pharmacy, dental
10 services, and professional services. This fee schedule
11 shall be based on the fee schedule amounts already
12 established by the Commission pursuant to subsection (a) of
13 this Section. However, these fee schedule amounts shall be
14 grouped into 4 regions to be implemented as follows:

15 Region 1: Cook County.

16 Region 2: DuPage, Kane, Lake, and Will Counties.

17 Region 3: Bond, Calhoun, Clinton, Jersey, Macoupin,
18 Madison, Monroe, Montgomery, Randolph, St. Clair, and
19 Washington Counties.

20 Region 4: All counties in Illinois that are not
21 included in Regions 1, 2, or 3.

22 (2) In cases where the compiled data contains less than
23 9 charges or fees for a procedure, treatment, product,
24 supply, or service or where the fee schedule amount cannot
25 be determined by the non-discounted charge data,
26 non-Medicare relative values and conversion factors

1 derived from established fee schedule amounts, coding
2 crosswalks, or other data as determined by the Commission,
3 reimbursement shall occur at 76% of charges and fees until
4 April 1, 2011 and 64.6% of charges and fees thereafter as
5 determined by the Commission in a manner consistent with
6 the provisions of this paragraph. If a geozip, as defined
7 in subsection (a) of this Section, overlaps into one or
8 more of the regions set forth in paragraph (1) of this
9 subsection (a-1), then the Commission shall average or
10 repeat the charges and fees in a geozip in order to
11 designate charges and fees for each region.

12 (3) To establish additional fee schedule amounts, the
13 Commission shall utilize provider non-discounted charge
14 data, non-Medicare relative values and conversion factors
15 derived from established fee schedule amounts, and coding
16 crosswalks. The Commission may establish additional fee
17 schedule amounts based on either the charge or cost of the
18 procedure, treatment, product, supply, or service.

19 (4) Implants shall be reimbursed at 25% above the net
20 manufacturer's invoice price less rebates, plus actual
21 reasonable and customary shipping charges whether or not
22 the implant charge is submitted by a provider in
23 conjunction with a bill for all other services associated
24 with the implant, submitted by a provider on a separate
25 claim form, submitted by a distributor, or submitted by the
26 manufacturer of the implant. "Implants" include the

1 following codes or any substantially similar updated code
2 as determined by the Commission: 0274
3 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens
4 implant); 0278 (implants); 0540 and 0545 (ambulance); 0624
5 (investigational devices); and 0636 (drugs requiring
6 detailed coding). Non-implantable devices or supplies
7 within these codes shall be reimbursed at 65% of actual
8 charge, which is the provider's normal rates under its
9 standard chargemaster. A standard chargemaster is the
10 provider's list of charges for procedures, treatments,
11 products, supplies, or services used to bill payers in a
12 consistent manner.

13 (5) The Commission shall automatically update all
14 codes and associated rules with the version of the codes
15 and rules valid on January 1 of that year.

16 (a-2) For procedures, treatments, services, or supplies
17 covered under this Act and rendered or to be rendered on or
18 after April 1, 2011, the maximum allowable payment shall be 85%
19 of the fee schedule amounts and any reimbursements for charges
20 and fees pursuant to paragraph (2) of subsection (a-1) in
21 effect on April 1, 2011 and thereafter be adjusted yearly by
22 the Consumer Price Index-U, as described in subsection (a) of
23 this Section.

24 (a-3) Prescriptions filled and dispensed outside of a
25 licensed pharmacy shall be subject to a fee schedule that shall
26 not exceed the Average Wholesale Price (AWP) or its equivalent

1 plus a dispensing fee of \$4.18. AWP or its equivalent will be
2 as set forth for that drug on that date as published in
3 Medispan.

4 (b) Notwithstanding the provisions of subsections
5 ~~subsection (a) and (a-1) of this Section,~~ if the Commission
6 finds that there is a significant limitation on access to
7 quality health care in either a specific field of health care
8 services for a specific procedure, treatment, product,
9 service, or supply or for a specific geographic limitation on
10 access to health care, it may adjust fee schedule amounts in a
11 manner consistent with the provisions of this Act ~~change the~~
12 ~~Consumer Price Index-U increase or decrease for that specific~~
13 ~~field or specific geographic limitation on access to health~~
14 ~~care~~ to address that limitation.

15 (c) The Commission shall establish by rule a process to
16 review those medical cases or outliers that involve
17 extra-ordinary treatment to determine whether to make an
18 additional adjustment to the maximum payment within a fee
19 schedule for a procedure, treatment, or service.

20 (d) When a patient notifies a provider that the treatment,
21 procedure, or service being sought is for a work-related
22 illness or injury and furnishes the provider the name and
23 address of the responsible employer, the provider shall bill
24 the employer directly. The employer shall make payment and
25 providers shall submit bills and records in accordance with the
26 provisions of this Section. All payments to providers for

1 treatment provided pursuant to this Act shall be made within 60
2 days of receipt of the bills as long as the claim contains
3 substantially all the required data elements necessary to
4 adjudicate the bills. In the case of nonpayment to a provider
5 within 60 days of receipt of the bill which contained
6 substantially all of the required data elements necessary to
7 adjudicate the bill or nonpayment to a provider of a portion of
8 such a bill up to the lesser of the actual charge or the
9 payment level set by the Commission in the fee schedule
10 established in this Section, the bill, or portion of the bill,
11 shall incur interest at a rate of 1% per month payable to the
12 provider.

13 (e) Except as provided in subsections (e-5), (e-10), and
14 (e-15), a provider shall not hold an employee liable for costs
15 related to a non-disputed procedure, treatment, or service
16 rendered in connection with a compensable injury. The
17 provisions of subsections (e-5), (e-10), (e-15), and (e-20)
18 shall not apply if an employee provides information to the
19 provider regarding participation in a group health plan. If the
20 employee participates in a group health plan, the provider may
21 submit a claim for services to the group health plan. If the
22 claim for service is covered by the group health plan, the
23 employee's responsibility shall be limited to applicable
24 deductibles, co-payments, or co-insurance. Except as provided
25 under subsections (e-5), (e-10), (e-15), and (e-20), a provider
26 shall not bill or otherwise attempt to recover from the

1 employee the difference between the provider's charge and the
2 amount paid by the employer or the insurer on a compensable
3 injury, or for medical services or treatment determined by the
4 Commission to be excessive or unnecessary.

5 (e-5) If an employer notifies a provider that the employer
6 does not consider the illness or injury to be compensable under
7 this Act, the provider may seek payment of the provider's
8 actual charges from the employee for any procedure, treatment,
9 or service rendered. Once an employee informs the provider that
10 there is an application filed with the Commission to resolve a
11 dispute over payment of such charges, the provider shall cease
12 any and all efforts to collect payment for the services that
13 are the subject of the dispute. Any statute of limitations or
14 statute of repose applicable to the provider's efforts to
15 collect payment from the employee shall be tolled from the date
16 that the employee files the application with the Commission
17 until the date that the provider is permitted to resume
18 collection efforts under the provisions of this Section.

19 (e-10) If an employer notifies a provider that the employer
20 will pay only a portion of a bill for any procedure, treatment,
21 or service rendered in connection with a compensable illness or
22 disease, the provider may seek payment from the employee for
23 the remainder of the amount of the bill up to the lesser of the
24 actual charge, negotiated rate, if applicable, or the payment
25 level set by the Commission in the fee schedule established in
26 this Section. Once an employee informs the provider that there

1 is an application filed with the Commission to resolve a
2 dispute over payment of such charges, the provider shall cease
3 any and all efforts to collect payment for the services that
4 are the subject of the dispute. Any statute of limitations or
5 statute of repose applicable to the provider's efforts to
6 collect payment from the employee shall be tolled from the date
7 that the employee files the application with the Commission
8 until the date that the provider is permitted to resume
9 collection efforts under the provisions of this Section.

10 (e-15) When there is a dispute over the compensability of
11 or amount of payment for a procedure, treatment, or service,
12 and a case is pending or proceeding before an Arbitrator or the
13 Commission, the provider may mail the employee reminders that
14 the employee will be responsible for payment of any procedure,
15 treatment or service rendered by the provider. The reminders
16 must state that they are not bills, to the extent practicable
17 include itemized information, and state that the employee need
18 not pay until such time as the provider is permitted to resume
19 collection efforts under this Section. The reminders shall not
20 be provided to any credit rating agency. The reminders may
21 request that the employee furnish the provider with information
22 about the proceeding under this Act, such as the file number,
23 names of parties, and status of the case. If an employee fails
24 to respond to such request for information or fails to furnish
25 the information requested within 90 days of the date of the
26 reminder, the provider is entitled to resume any and all

1 efforts to collect payment from the employee for the services
2 rendered to the employee and the employee shall be responsible
3 for payment of any outstanding bills for a procedure,
4 treatment, or service rendered by a provider.

5 (e-20) Upon a final award or judgment by an Arbitrator or
6 the Commission, or a settlement agreed to by the employer and
7 the employee, a provider may resume any and all efforts to
8 collect payment from the employee for the services rendered to
9 the employee and the employee shall be responsible for payment
10 of any outstanding bills for a procedure, treatment, or service
11 rendered by a provider as well as the interest awarded under
12 subsection (d) of this Section. In the case of a procedure,
13 treatment, or service deemed compensable, the provider shall
14 not require a payment rate, excluding the interest provisions
15 under subsection (d), greater than the lesser of the actual
16 charge or the payment level set by the Commission in the fee
17 schedule established in this Section. Payment for services
18 deemed not covered or not compensable under this Act is the
19 responsibility of the employee unless a provider and employee
20 have agreed otherwise in writing. Services not covered or not
21 compensable under this Act are not subject to the fee schedule
22 in this Section.

23 (f) Nothing in this Act shall prohibit an employer or
24 insurer from contracting with a health care provider or group
25 of health care providers for reimbursement levels for benefits
26 under this Act different from those provided in this Section.

1 (g) On or before January 1, 2010 the Commission shall
2 provide to the Governor and General Assembly a report regarding
3 the implementation of the medical fee schedule and the index
4 used for annual adjustment to that schedule as described in
5 this Section.

6 (Source: P.A. 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

7 (820 ILCS 305/8.3)

8 Sec. 8.3. Workers' Compensation Medical Fee Advisory
9 Board. There is created a Workers' Compensation Medical Fee
10 Advisory Board consisting of 9 members appointed by the
11 Governor with the advice and consent of the Senate. Three
12 members of the Advisory Board shall be representative citizens
13 chosen from the employee class, 3 members shall be
14 representative citizens chosen from the employing class, and 3
15 members shall be representative citizens chosen from the
16 medical provider class. Each member shall serve a 4-year term
17 and shall continue to serve until a successor is appointed. A
18 vacancy on the Advisory Board shall be filled by the Governor
19 for the unexpired term.

20 Members of the Advisory Board shall receive no compensation
21 for their services but shall be reimbursed for expenses
22 incurred in the performance of their duties by the Commission
23 from appropriations made to the Commission for that purpose.

24 The Advisory Board shall advise the Commission on
25 establishment of fees for medical services and accessibility of

1 medical treatment. Additionally, by April 1, 2011, the Board
2 shall issue a written report, to be delivered to the Chairman
3 of the Commission and the General Assembly, containing (i)
4 recommendations on how to streamline the process under which
5 workers' compensation insurers process and issue payments and
6 health care providers receive such payments and (ii) a
7 recommended set of best practices for workers' compensation
8 insurers to transition from a paper-based payment system to an
9 electronic-based payment system.

10 (Source: P.A. 94-277, eff. 7-20-05.)

11 (820 ILCS 305/8.7)

12 Sec. 8.7. Utilization review programs.

13 (a) As used in this Section:

14 "Utilization review" means the evaluation of proposed or
15 provided health care services to determine the appropriateness
16 of both the level of health care services medically necessary
17 and the quality of health care services provided to a patient,
18 including evaluation of their efficiency, efficacy, and
19 appropriateness of treatment, hospitalization, or office
20 visits based on medically accepted standards. The evaluation
21 must be accomplished by means of a system that identifies the
22 utilization of health care services based on standards of care
23 of ~~or~~ nationally recognized peer review guidelines as well as
24 nationally recognized treatment guidelines and evidence-based
25 medicine ~~evidence~~ based upon standards as provided in this Act.

1 Utilization techniques may include prospective review, second
2 opinions, concurrent review, discharge planning, peer review,
3 independent medical examinations, and retrospective review
4 (for purposes of this sentence, retrospective review shall be
5 applicable to services rendered on or after July 20, 2005).
6 Nothing in this Section applies to prospective review of
7 necessary first aid or emergency treatment.

8 (b) No person may conduct a utilization review program for
9 workers' compensation services in this State unless once every
10 2 years the person registers the utilization review program
11 with the Department of Insurance ~~Financial and Professional~~
12 ~~Regulation~~ and certifies compliance with the Workers'
13 Compensation Utilization Management standards or Health
14 Utilization Management Standards of URAC sufficient to achieve
15 URAC accreditation or submits evidence of accreditation by URAC
16 for its Workers' Compensation Utilization Management Standards
17 or Health Utilization Management Standards. Nothing in this Act
18 shall be construed to require an employer or insurer or its
19 subcontractors to become URAC accredited.

20 (c) In addition, the Director ~~Secretary~~ of Insurance
21 ~~Financial and Professional Regulation~~ may certify alternative
22 utilization review standards of national accreditation
23 organizations or entities in order for plans to comply with
24 this Section. Any alternative utilization review standards
25 shall meet or exceed those standards required under subsection
26 (b).

1 (d) This registration shall include submission of all of
2 the following information regarding utilization review program
3 activities:

4 (1) The name, address, and telephone number of the
5 utilization review programs.

6 (2) The organization and governing structure of the
7 utilization review programs.

8 (3) The number of lives for which utilization review is
9 conducted by each utilization review program.

10 (4) Hours of operation of each utilization review
11 program.

12 (5) Description of the grievance process for each
13 utilization review program.

14 (6) Number of covered lives for which utilization
15 review was conducted for the previous calendar year for
16 each utilization review program.

17 (7) Written policies and procedures for protecting
18 confidential information according to applicable State and
19 federal laws for each utilization review program.

20 (e) A utilization review program shall have written
21 procedures to ensure that patient-specific information
22 obtained during the process of utilization review will be:

23 (1) kept confidential in accordance with applicable
24 State and federal laws; and

25 (2) shared only with the employee, the employee's
26 designee, and the employee's health care provider, and

1 those who are authorized by law to receive the information.
2 Summary data shall not be considered confidential if it
3 does not provide information to allow identification of
4 individual patients or health care providers.

5 Only a health care professional may make determinations
6 regarding the medical necessity of health care services during
7 the course of utilization review.

8 When making retrospective reviews, utilization review
9 programs shall base reviews solely on the medical information
10 available to the attending physician or ordering provider at
11 the time the health care services were provided.

12 (f) If the Department of Insurance ~~Financial and~~
13 ~~Professional Regulation~~ finds that a utilization review
14 program is not in compliance with this Section, the Department
15 shall issue a corrective action plan and allow a reasonable
16 amount of time for compliance with the plan. If the utilization
17 review program does not come into compliance, the Department
18 may issue a cease and desist order. Before issuing a cease and
19 desist order under this Section, the Department shall provide
20 the utilization review program with a written notice of the
21 reasons for the order and allow a reasonable amount of time to
22 supply additional information demonstrating compliance with
23 the requirements of this Section and to request a hearing. The
24 hearing notice shall be sent by certified mail, return receipt
25 requested, and the hearing shall be conducted in accordance
26 with the Illinois Administrative Procedure Act.

1 (g) A utilization review program subject to a corrective
2 action may continue to conduct business until a final decision
3 has been issued by the Department.

4 (h) The Department of Insurance ~~Secretary of Financial and~~
5 ~~Professional Regulation~~ may by rule establish a registration
6 fee for each person conducting a utilization review program.

7 (i) Upon receipt of written notice that the employer or the
8 employer's agent or insurer wishes to invoke the utilization
9 review process, the provider of medical, surgical or hospital
10 services shall submit to the utilization review, following URAC
11 procedural guidelines and appeal process. If the provider fails
12 to submit to utilization review of proposed treatment or
13 services, the charges for the treatment or service shall not be
14 compensable or collectible against the employer, the
15 employer's agent or insurer, or the employee. When an employer
16 denies payment of or refuses to authorize payment of first aid,
17 medical, surgical, or hospital services under Section 8(a) of
18 this Act that complies with subsection (b) of this Section,
19 that denial or refusal to authorize shall create a rebuttable
20 presumption that the extent and scope of medical treatment is
21 excessive and unnecessary. That presumption may be rebutted by
22 establishing by a preponderance of the evidence that a variance
23 from the standards of care or guidelines used pursuant to
24 subsection (a) of this Section is reasonably required to cure
25 and relieve the employee from the effects of his or her injury
26 or that the utilization review did not comply with subsection

1 (b) of this Section. A utilization review will be considered by
2 the Commission, along with all other evidence and in the same
3 manner as all other evidence, in the determination of the
4 reasonableness and necessity of the medical bills or treatment.
5 Nothing in this Section shall be construed to diminish the
6 rights of employees to reasonable and necessary medical
7 treatment or employee choice of health care provider under
8 Section 8(a) or the rights of employers to medical examinations
9 under Section 12.

10 (j) When an employer denies payment of or refuses to
11 authorize payment of first aid, medical, surgical, or hospital
12 services under Section 8(a) of this Act, if that denial or
13 refusal to authorize complies with a utilization review program
14 registered under this Section and complies with all other
15 requirements of this Section, then there shall be a rebuttable
16 presumption that the employer shall not be responsible for
17 payment of additional compensation pursuant to Section 19(k) of
18 this Act and if that denial or refusal to authorize does not
19 comply with a utilization review program registered under this
20 Section and does not comply with all other requirements of this
21 Section, then that will be considered by the Commission, along
22 with all other evidence and in the same manner as all other
23 evidence, in the determination of whether the employer may be
24 responsible for the payment of additional compensation
25 pursuant to Section 19(k) of this Act.

26 (Source: P.A. 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

1 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

2 Sec. 11. The compensation herein provided, together with
3 the provisions of this Act, shall be the measure of the
4 responsibility of any employer engaged in any of the
5 enterprises or businesses enumerated in Section 3 of this Act,
6 or of any employer who is not engaged in any such enterprises
7 or businesses, but who has elected to provide and pay
8 compensation for accidental injuries sustained by any employee
9 arising out of and in the course of the employment according to
10 the provisions of this Act, and whose election to continue
11 under this Act, has not been nullified by any action of his
12 employees as provided for in this Act.

13 Accidental injuries incurred while participating in
14 voluntary recreational programs including but not limited to
15 athletic events, parties and picnics do not arise out of and in
16 the course of the employment even though the employer pays some
17 or all of the cost thereof. This exclusion shall not apply in
18 the event that the injured employee was ordered or assigned by
19 his employer to participate in the program.

20 Accidental injuries incurred while participating as a
21 patient in a drug or alcohol rehabilitation program do not
22 arise out of and in the course of employment even though the
23 employer pays some or all of the costs thereof.

24 Any injury to or disease or death of an employee arising
25 from the administration of a vaccine, including without

1 limitation smallpox vaccine, to prepare for, or as a response
2 to, a threatened or potential bioterrorist incident to the
3 employee as part of a voluntary inoculation program in
4 connection with the person's employment or in connection with
5 any governmental program or recommendation for the inoculation
6 of workers in the employee's occupation, geographical area, or
7 other category that includes the employee is deemed to arise
8 out of and in the course of the employment for all purposes
9 under this Act. This paragraph added by this amendatory Act of
10 the 93rd General Assembly is declarative of existing law and is
11 not a new enactment.

12 No compensation shall be payable if (i) the employee's
13 intoxication is the proximate cause of the employee's
14 accidental injury or (ii) at the time the employee incurred
15 accidental injury, the employee was so intoxicated that the
16 intoxication constituted a departure from the employment.
17 Admissible evidence of the concentration of (1) alcohol, (2)
18 cannabis as defined in the Cannabis Control Act, (3) a
19 controlled substance listed in the Illinois Controlled
20 Substances Act, or (4) an intoxicating compound listed in the
21 Use of Intoxicating Compounds Act in the employee's blood,
22 breath, or urine at the time the employee incurred the
23 accidental injury shall be considered in any hearing under this
24 Act to determine whether the employee was intoxicated at the
25 time the employee incurred the accidental injuries. If at the
26 time of the accidental injuries, there was 0.08% or more by

1 weight of alcohol in the employee's blood, breath, or urine or
2 if there is any evidence of impairment due to the unlawful or
3 unauthorized use of (1) cannabis as defined in the Cannabis
4 Control Act, (2) a controlled substance listed in the Illinois
5 Controlled Substances Act, or (3) an intoxicating compound
6 listed in the Use of Intoxicating Compounds Act or if the
7 employee refuses to submit to testing of blood, breath, or
8 urine, then there shall be a rebuttable presumption that the
9 employee was intoxicated and that the intoxication was the
10 proximate cause of the employee's injury. The employee may
11 overcome the rebuttable presumption by the preponderance of the
12 admissible evidence that the intoxication was not the sole
13 proximate cause or proximate cause of the accidental injuries.
14 Percentage by weight of alcohol in the blood shall be based on
15 grams of alcohol per 100 milliliters of blood. Percentage by
16 weight of alcohol in the breath shall be based upon grams of
17 alcohol per 210 liters of breath. Any testing that has not been
18 performed by an accredited or certified testing laboratory
19 shall not be admissible in any hearing under this Act to
20 determine whether the employee was intoxicated at the time the
21 employee incurred the accidental injury.

22 All sample collection and testing for alcohol and drugs
23 under this Section shall be performed in accordance with rules
24 to be adopted by the Commission. These rules shall ensure that:

25 (1) samples are collected and tested in conformance
26 with national and State legal and regulatory standards for

1 the privacy of the individual being tested, and in a manner
2 reasonably calculated to prevent substitutions or
3 interference with the collection or testing of reliable
4 sample;

5 (2) sample collection is documented, and the
6 documentation procedures include:

7 (A) the labeling of samples in a manner so as to
8 reasonably preclude the probability of erroneous
9 identification of test result; and

10 (B) an opportunity for the employee to provide
11 notification of any information which he or she
12 considers relevant to the test, including
13 identification of currently or recently used
14 prescription or nonprescription drugs and other
15 relevant medical information;

16 (3) sample collection, storage, and transportation to
17 the place of testing is performed in a manner so as to
18 reasonably preclude the probability of sample
19 contamination or adulteration; and

20 (4) chemical analyses of blood, urine, breath, or other
21 bodily substance are performed according to nationally
22 scientifically accepted analytical methods and procedures.

23 (Source: P.A. 93-829, eff. 7-28-04.)

24 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

25 Sec. 14. The Commission shall appoint a secretary, an

1 assistant secretary, and arbitrators and shall employ such
2 assistants and clerical help as may be necessary.

3 Each arbitrator appointed after November 22, 1977 shall be
4 required to demonstrate in writing and in accordance with the
5 rules and regulations of the Illinois Department of Central
6 Management Services his or her knowledge of and expertise in
7 the law of and judicial processes of the Workers' Compensation
8 Act and the Occupational Diseases Act.

9 A formal training program for newly-hired arbitrators
10 shall be implemented. The training program shall include the
11 following:

12 (a) substantive and procedural aspects of the
13 arbitrator position;

14 (b) current issues in workers' compensation law and
15 practice;

16 (c) medical lectures by specialists in areas such as
17 orthopedics, ophthalmology, psychiatry, rehabilitation
18 counseling;

19 (d) orientation to each operational unit of the
20 Illinois Workers' Compensation Commission;

21 (e) observation of experienced arbitrators conducting
22 hearings of cases, combined with the opportunity to discuss
23 evidence presented and rulings made;

24 (f) the use of hypothetical cases requiring the trainee
25 to issue judgments as a means to evaluating knowledge and
26 writing ability;

1 (g) writing skills.

2 A formal and ongoing professional development program
3 including, but not limited to, the above-noted areas shall be
4 implemented to keep arbitrators informed of recent
5 developments and issues and to assist them in maintaining and
6 enhancing their professional competence.

7 Each arbitrator shall devote full time to his or her duties
8 and shall serve when assigned as an acting Commissioner when a
9 Commissioner is unavailable in accordance with the provisions
10 of Section 13 of this Act. Any arbitrator who is an
11 attorney-at-law shall not engage in the practice of law, nor
12 shall any arbitrator hold any other office or position of
13 profit under the United States or this State or any municipal
14 corporation or political subdivision of this State.
15 Notwithstanding any other provision of this Act to the
16 contrary, an arbitrator who serves as an acting Commissioner in
17 accordance with the provisions of Section 13 of this Act shall
18 continue to serve in the capacity of Commissioner until a
19 decision is reached in every case heard by that arbitrator
20 while serving as an acting Commissioner.

21 Each arbitrator appointed after the effective date of this
22 amendatory Act of 1989 shall be appointed for a term of 6
23 years. Each arbitrator shall be appointed for a subsequent term
24 unless the Chairman makes a recommendation to the Commission,
25 no later than 60 days prior to the expiration of the term, not
26 to reappoint the arbitrator. Notice of such a recommendation

1 shall also be given to the arbitrator no later than 60 days
2 prior to the expiration of the term. Upon such recommendation
3 by the Chairman, the arbitrator shall be appointed for a
4 subsequent term unless 8 of 10 members of the Commission,
5 including the Chairman, vote not to reappoint the arbitrator.

6 Each arbitrator appointed to a first term on or after the
7 effective date of this amendatory Act of the 96th General
8 Assembly shall be required to be authorized to practice law in
9 this State by the Supreme Court.

10 All arbitrators shall be subject to the provisions of the
11 Personnel Code, and the performance of all arbitrators shall be
12 reviewed by the Chairman on an annual basis. The Chairman shall
13 allow input from the Commissioners in all such reviews.

14 The Secretary and each arbitrator shall receive a per annum
15 salary of \$4,000 less than the per annum salary of members of
16 The Illinois Workers' Compensation Commission as provided in
17 Section 13 of this Act, payable in equal monthly installments.

18 The members of the Commission, Arbitrators and other
19 employees whose duties require them to travel, shall have
20 reimbursed to them their actual traveling expenses and
21 disbursements made or incurred by them in the discharge of
22 their official duties while away from their place of residence
23 in the performance of their duties.

24 The Commission shall provide itself with a seal for the
25 authentication of its orders, awards and proceedings upon which
26 shall be inscribed the name of the Commission and the words

1 "Illinois--Seal".

2 The Secretary or Assistant Secretary, under the direction
3 of the Commission, shall have charge and custody of the seal of
4 the Commission and also have charge and custody of all records,
5 files, orders, proceedings, decisions, awards and other
6 documents on file with the Commission. He shall furnish
7 certified copies, under the seal of the Commission, of any such
8 records, files, orders, proceedings, decisions, awards and
9 other documents on file with the Commission as may be required.
10 Certified copies so furnished by the Secretary or Assistant
11 Secretary shall be received in evidence before the Commission
12 or any Arbitrator thereof, and in all courts, provided that the
13 original of such certified copy is otherwise competent and
14 admissible in evidence. The Secretary or Assistant Secretary
15 shall perform such other duties as may be prescribed from time
16 to time by the Commission.

17 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05.)

18 (820 ILCS 305/16b new)

19 Sec. 16b. Signature constitutes certification. The
20 signature of a petitioner or respondent or his, her, or its
21 attorney or group of attorneys on any petition, motion, or
22 other paper filed with the Commission constitutes a
23 certification by him, her, or it that he, she, or it has read
24 the petition, motion, or other paper, and, that to the best of
25 his, her, or its knowledge, information, and belief formed

1 after reasonable inquiry that it is well grounded in fact and
2 that it is warranted by existing law and that it is not
3 interposed for any improper purpose, such as to harass or to
4 cause unnecessary delay or needless increase in the cost of
5 litigation. If a petition, motion, or other paper is signed in
6 violation of this Section, the Commission, upon motion or upon
7 its own initiative, may impose upon the petitioner or
8 respondent or his, her, or its attorney or group of attorneys
9 an appropriate penalty or may order him, her, or it to pay the
10 other party the amount of reasonable expenses incurred because
11 of the filing of the petition, motion, or other paper,
12 including reasonable attorneys' fees.

13 (820 ILCS 305/25.5)

14 Sec. 25.5. Unlawful acts; penalties.

15 (a) It is unlawful for any person, company, corporation,
16 insurance carrier, healthcare provider, or other entity to:

17 (1) Intentionally present or cause to be presented any
18 false or fraudulent claim for the payment of any workers'
19 compensation benefit.

20 (2) Intentionally make or cause to be made any false or
21 fraudulent material statement or material representation
22 for the purpose of obtaining or denying any workers'
23 compensation benefit.

24 (3) Intentionally make or cause to be made any false or
25 fraudulent statements with regard to entitlement to

1 workers' compensation benefits with the intent to prevent
2 an injured worker from making a legitimate claim for any
3 workers' compensation benefits.

4 (4) Intentionally prepare or provide an invalid,
5 false, or counterfeit certificate of insurance as proof of
6 workers' compensation insurance.

7 (5) Intentionally make or cause to be made any false or
8 fraudulent material statement or material representation
9 for the purpose of obtaining workers' compensation
10 insurance at less than the proper rate for that insurance.

11 (6) Intentionally make or cause to be made any false or
12 fraudulent material statement or material representation
13 on an initial or renewal self-insurance application or
14 accompanying financial statement for the purpose of
15 obtaining self-insurance status or reducing the amount of
16 security that may be required to be furnished pursuant to
17 Section 4 of this Act.

18 (7) Intentionally make or cause to be made any false or
19 fraudulent material statement to the Department ~~Division~~
20 of Insurance's fraud and insurance non-compliance unit in
21 the course of an investigation of fraud or insurance
22 non-compliance.

23 (8) Intentionally assist, abet, solicit, or conspire
24 with any person, company, or other entity to commit any of
25 the acts in paragraph (1), (2), (3), (4), (5), (6), or (7)
26 of this subsection (a).

1 For the purposes of paragraphs (2), (3), (5), (6), and (7),
2 the term "statement" includes any writing, notice, proof of
3 injury, bill for services, hospital or doctor records and
4 reports, or X-ray and test results.

5 (b) Any person violating subsection (a) is guilty of a
6 Class 4 felony. Any person or entity convicted of any violation
7 of this Section shall be ordered to pay complete restitution to
8 any person or entity so defrauded in addition to any fine or
9 sentence imposed as a result of the conviction.

10 (c) The Department ~~Division~~ of Insurance ~~of the Department~~
11 ~~of Financial and Professional Regulation~~ shall establish a
12 fraud and insurance non-compliance unit responsible for
13 investigating incidences of fraud and insurance non-compliance
14 pursuant to this Section. The size of the staff of the unit
15 shall be subject to appropriation by the General Assembly. It
16 shall be the duty of the fraud and insurance non-compliance
17 unit to determine the identity of insurance carriers,
18 employers, employees, or other persons or entities who have
19 violated the fraud and insurance non-compliance provisions of
20 this Section. The fraud and insurance non-compliance unit shall
21 report violations of the fraud and insurance non-compliance
22 provisions of this Section to the Special Prosecutions Bureau
23 of the Criminal Division of the Office of the Attorney General
24 or to the State's Attorney of the county in which the offense
25 allegedly occurred, either of whom has the authority to
26 prosecute violations under this Section.

1 With respect to the subject of any investigation being
2 conducted, the fraud and insurance non-compliance unit shall
3 have the general power of subpoena of the Department ~~Division~~
4 of Insurance.

5 (d) Any person may report allegations of insurance
6 non-compliance and fraud pursuant to this Section to the
7 Department ~~Division~~ of Insurance's fraud and insurance
8 non-compliance unit whose duty it shall be to investigate the
9 report. The unit shall notify the Commission of reports of
10 insurance non-compliance. Any person reporting an allegation
11 of insurance non-compliance or fraud against either an employee
12 or employer under this Section must identify himself. Except as
13 provided in this subsection and in subsection (e), all reports
14 shall remain confidential except to refer an investigation to
15 the Attorney General or State's Attorney for prosecution or if
16 the fraud and insurance non-compliance unit's investigation
17 reveals that the conduct reported may be in violation of other
18 laws or regulations of the State of Illinois, the unit may
19 report such conduct to the appropriate governmental agency
20 charged with administering such laws and regulations. Any
21 person who intentionally makes a false report under this
22 Section to the fraud and insurance non-compliance unit is
23 guilty of a Class A misdemeanor.

24 (e) In order for the fraud and insurance non-compliance
25 unit to investigate a report of fraud by an employee, (i) the
26 employee must have filed with the Commission an Application for

1 Adjustment of Claim and the employee must have either received
2 or attempted to receive benefits under this Act that are
3 related to the reported fraud or (ii) the employee must have
4 made a written demand for the payment of benefits that are
5 related to the reported fraud. Upon receipt of a report of
6 fraud, the employee or employer shall receive immediate notice
7 of the reported conduct, including the verified name and
8 address of the complainant if that complainant is connected to
9 the case and the nature of the reported conduct. The fraud and
10 insurance non-compliance unit shall resolve all reports of
11 fraud against employees or employers within 120 days of receipt
12 of the report. There shall be no immunity, under this Act or
13 otherwise, for any person who files a false report or who files
14 a report without good and just cause. Confidentiality of
15 medical information shall be strictly maintained.
16 Investigations that are not referred for prosecution shall be
17 immediately expunged and shall not be disclosed except that the
18 employee or employer who was the subject of the report and the
19 person making the report shall be notified that the
20 investigation is being closed, at which time the name of any
21 complainant not connected to the case shall be disclosed to the
22 employee or the employer. It is unlawful for any employer,
23 insurance carrier, or service adjustment company to file or
24 threaten to file a report of fraud against an employee because
25 of the exercise by the employee of the rights and remedies
26 granted to the employee by this Act.

1 For purposes of this subsection (e), "employer" means any
2 employer, insurance carrier, third party administrator,
3 self-insured, or similar entity.

4 For purposes of this subsection (e), "complainant" refers
5 to the person contacting the fraud and insurance non-compliance
6 unit to initiate the complaint.

7 (e-5) The fraud and insurance non-compliance unit shall
8 procure and implement a system utilizing advanced analytics
9 inclusive of predictive modeling, data mining, social network
10 analysis, and scoring algorithms for the detection and
11 prevention of fraud, waste, and abuse on or before July 1,
12 2011. The fraud and insurance non-compliance unit shall procure
13 this system using a request for proposals process governed by
14 the Illinois Procurement Code and rules adopted under that
15 Code. The fraud and insurance non-compliance unit shall provide
16 a report to the President of the Senate, Speaker of the House
17 of Representatives, Minority Leader of the House of
18 Representatives, Minority Leader of the Senate, Governor, and
19 Director of Insurance on or before July 1, 2012 and annually
20 thereafter detailing its activities and providing
21 recommendations regarding opportunities for additional fraud
22 waste and abuse detection and prevention.

23 (f) Any person convicted of fraud related to workers'
24 compensation pursuant to this Section shall be subject to the
25 penalties prescribed in the Criminal Code of 1961 and shall be
26 ineligible to receive or retain any compensation, disability,

1 or medical benefits as defined in this Act if the compensation,
2 disability, or medical benefits were owed or received as a
3 result of fraud for which the recipient of the compensation,
4 disability, or medical benefit was convicted. This subsection
5 applies to accidental injuries or diseases that occur on or
6 after the effective date of this amendatory Act of the 94th
7 General Assembly.

8 (g) Civil liability. Any person convicted of fraud who
9 knowingly obtains, attempts to obtain, or causes to be obtained
10 any benefits under this Act by the making of a false claim or
11 who knowingly misrepresents any material fact shall be civilly
12 liable to the payor of benefits or the insurer or the payor's
13 or insurer's subrogee or assignee in an amount equal to 3 times
14 the value of the benefits or insurance coverage wrongfully
15 obtained or twice the value of the benefits or insurance
16 coverage attempted to be obtained, plus reasonable attorney's
17 fees and expenses incurred by the payor or the payor's subrogee
18 or assignee who successfully brings a claim under this
19 subsection. This subsection applies to accidental injuries or
20 diseases that occur on or after the effective date of this
21 amendatory Act of the 94th General Assembly.

22 (h) ~~The All proceedings under this Section shall be~~
23 ~~reported by the~~ fraud and insurance non-compliance unit shall
24 submit a written report on an annual basis to the Workers'
25 Compensation Advisory Board, the General Assembly, the
26 Governor, and the Attorney General by January 1st and July 1st

1 of each year. This report shall include, at the minimum, the
2 following information:

3 (1) The number of allegations of insurance
4 non-compliance and fraud reported to the fraud and
5 insurance non-compliance unit.

6 (2) The source of the reported allegations
7 (individual, employer, or other).

8 (3) The number of allegations investigated by the fraud
9 and insurance non-compliance unit.

10 (4) The number of criminal referrals made in accordance
11 with this Section and the entity to which the referral was
12 made.

13 (5) All proceedings under this Section.

14 (Source: P.A. 94-277, eff. 7-20-05.)

15 (820 ILCS 305/29.1 new)

16 Sec. 29.1. Recalculation of premiums. On the effective date
17 of this amendatory Act of the 96th General Assembly, the
18 Director of Insurance shall immediately direct in writing any
19 workers' compensation rate setting advisory organization to
20 recalculate workers' compensation advisory premium rates and
21 assigned risk pool premium rates so that those premiums
22 incorporate the provisions of this amendatory Act of the 96th
23 General Assembly.

24 (820 ILCS 305/29.2 new)

1 Sec. 29.2. Insurance oversight. The Department of
2 Insurance shall annually submit to the Governor, the President
3 of the Senate, the Speaker of the House of Representatives, the
4 Minority Leader of the Senate, and the Minority Leader of the
5 House of Representatives a written report that details the
6 state of the workers' compensation insurance market in
7 Illinois. The report shall be completed by April 1 of each
8 year, beginning in 2012, or later if necessary data or analyses
9 are only available to the Department at a later date. The
10 report shall be posted on the Department of Insurance's
11 Internet website. Information to be included in the report
12 shall be for the preceding calendar year. The report shall
13 include, at a minimum, the following:

14 (1) Gross premiums collected by workers' compensation
15 carriers in Illinois and the national rank of Illinois
16 based on premium volume.

17 (2) The number of insurance companies actively engaged
18 in Illinois in the workers' compensation insurance market,
19 including both holding companies and subsidiaries or
20 affiliates, and the national rank of Illinois based on
21 number of competing insurers.

22 (3) The total number of insured participants in the
23 Illinois workers' compensation assigned risk insurance
24 pool, and the size of the assigned risk pool as a
25 proportion of the total Illinois workers' compensation
26 insurance market.

1 (4) The advisory organization premium rate for
2 workers' compensation insurance in Illinois for the
3 previous year.

4 (5) The advisory organization prescribed assigned risk
5 pool premium rate.

6 (6) The total amount of indemnity payments made by
7 workers' compensation insurers in Illinois.

8 (7) The total amount of medical payments made by
9 workers' compensation insurers in Illinois, and the
10 national rank of Illinois based on average cost of medical
11 claims per injured worker.

12 (8) The gross profitability of workers' compensation
13 insurers in Illinois, and the national rank of Illinois
14 based on profitability of workers' compensation insurers.

15 (9) The loss ratio of workers' compensation insurers in
16 Illinois and the national rank of Illinois based on the
17 loss ratio of workers' compensation insurers. For purposes
18 of this loss ratio calculation, the denominator shall
19 include all premiums and other fees collected by workers'
20 compensation insurers and the numerator shall include the
21 total amount paid by the insurer for care or compensation
22 to injured workers.

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.".